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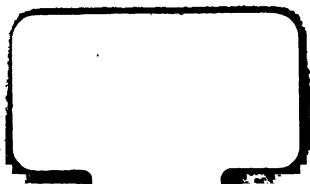
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THE
HISTORY
OF THE
COLONY OF VICTORIA

FROM ITS SETTLEMENT TO THE DEATH OF
SIR CHARLES HOTHAM.

BY
THE HON. THOMAS McCOMBIE.

MELBOURNE AND SYDNEY: SANDS AND KENNY:

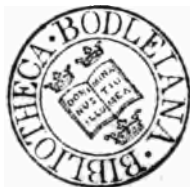
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1858.

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PREFACE.

THE greater part of the books which have issued from the press professing to treat on Victoria have been intended for European readers, and have but comparatively little interest for colonists. The author hopes that this record of the past will possess some value in the eyes of a Victorian public, and be useful, hereafter, as a work of reference. Lord Bolingbroke, in his "Letters on the Study and Use of History," has commented upon the proneness of men to exaggerate the importance of the scenes which have been enacted within the range of their own observation; and some persons will, no doubt, imagine that the author has been too minute in detailing the facts connected with the early history of the colony. He must only give the apology of Horace Walpole, under the same circumstances, who said, "Perhaps I have described these squabbles too minutely; passages in which one has been conversant often appear too interesting. I can only say, that I have preferred offending in this respect to the contrary; but, as many men love these details, their curiosity would be unsatisfied with abridgments." But, if this be objected to by some, there are, no doubt, many thinking men who will view the matter in a different aspect. There is, perhaps, no period in the history of colonization which can be compared, in interest, with the last twenty years. The bureaucratic system of government so long in operation has, during that period, been thrown aside in the most important colonial dependencies of Great Britain, and has been replaced by self-government. The old system has been rapidly and silently passing away, and an entirely new order of things has been developing itself. From a perfect despotism these countries are passing, at a single leap, to the very opposite point of extreme democracy. There are several subjects touched on in this history which the statesman and political economist ought not to pass by without due consideration. The Government of Dependencies has scarcely, hitherto, been studied with the attention which the importance of the subject demands.

The period over which this history extends is hardly twenty years; but such has been its wonderful progress, that the annals of all nations would be ransacked in vain for a parallel to it. The author has added a considerable amount of statistical information in the first portion of the work. He did not, however, deem it necessary to continue this after separation, as "facts and figures" since that era may easily be found in the "votes and proceedings" of our Victorian Legislative Council.

The first few pages of the work were printed off without the author having had an opportunity of revising the proof sheets, and slight inaccuracies have, in consequence, crept in, which he embraces this opportunity of correcting; the name of Captain Hovel, one of the early explorers of this colony, is incorrectly spelled. This fact was perceived too late to be rectified in this edition of the work. An extract from the *Port Phillip Gazette* appears in page 43, in the form of a foot-note, stating, that "Mr. Darke, the surveyor, late of Port Phillip, had been murdered by the natives at Port Lincoln." This, the author has discovered, was not the gentleman who laid out the spacious streets of Melbourne, but his brother, who was also a government surveyor. The Mr. Darke alluded to in this work is, therefore, the author believes, still alive.

The author has not deemed it delicate to continue the history farther than the close of Sir Charles Hotham's government. Some readers will recollect the anecdote of the "black fellow" who could imitate every governor who had held sway in New South Wales, but who made it a point of honor to refuse to give the "bow" of the ruler actually in office. In the eyes of the acute savage there appeared something improper in taking liberties with the actual representative of majesty. The author doubted the propriety of chronicling the events which have occurred during Sir Henry Barkly's government. He may, however, at some future period, add a few more chapters to the History of Victoria.

30th August, 1858.

HISTORY OF VICTORIA.

CHAPTER I.

VICTORIA.—Discovery of its Coasts—Settlement of Port Phillip, by Governor Collins, in 1803—Abandoned in 1804—Voyagers and Explorers—The Expedition of Hovenden and Hume—Attempt to form a Settlement at Western Port—Major Mitchell Explores the Interior of Port Phillip.

THE Colony of Victoria is said to contain within its area 100,000 square miles. Its boundaries are Bass's Straits to the south and east; the Colony of New South Wales to the north and north-east, by a straight line drawn from Cape Howe to the nearest source of the River Murray, and thence by the course of that river to the eastern boundary of the Colony of South Australia;* the Colony of South Australia, near the line of 141 of E. long., to the west.

This popular dependency of the British Crown was, until 1850, known as Port Phillip, and was, in fact, merely the southern district of New South Wales. It received this name from Governor King, who desired to honor the memory of his predecessor, Captain Phillip, who had charge of the original settlers for New South Wales. Sir Thomas Mitchell, the late Surveyor-General of that colony, when on his exploring expedition into its beautiful plains and park-like forests, gave it the appropriate designation of Australia Felix, but it was never generally adopted.

Holland has the honor of having discovered the continent of Australia about 1605. That great country was then nearly at the height of its power, and encouraged naval adventure and discovery; and the officers sent in command of these voyages were in no way inferior in courage

* Act for the better Government of her Majesty's Australasian Colonies, 13 and 14 Vic., chap. 59.

and bravery to those who remained to command the fleets of war. They surveyed the coast from Carpentaria to Nuyts' Archipelago, now a portion of South Australia, and at no great distance from Spencer's Gulf. When, unfortunately, the Dutch Republic sank in the scale of nations, these voyages were abandoned, and it was a full century before Spain, France, and Great Britain began to interest themselves about these far-distant shores. But while the great maritime nations of Europe have had something to do with the exploring of the unknown coasts of Australia, our country alone has the credit of having colonized them. The particular portion of the continent which I have more especially to notice was discovered by natives of our own country. Captain Cook is supposed to have been the first to discover the coast of Port Phillip, about 1770. The celebrated discoverer, Bass, appears to have been the first who landed on our shores, during his celebrated exploring expedition in 1798. The vessel sent to examine the coast of Tasmania, or Van Diemen's Land, sailed from Sydney in October, 1798, and contained the distinguished discoverers, Flinders and Bass, on board. They found that a strait separated the main land from the island. The following is the account given by Collins of their landing at what is now known as Twofold Bay :—

“The *Norfolk*, as has been already stated, sailed upon this voyage of discovery about the 7th October, 1798, with Lieutenant Flinders and Mr. Bass, and, on the 11th, anchored in Twofold Bay. Mr. Bass, on examination, found Twofold Bay situated at the southern end of a short chain of hummocky hills, one part of which is more conspicuous than the rest, and lies immediately behind the Bay. The land on the west side, being a part of this chain of hills, is high and rocky. The shore is divided into steep cliff-heads, with small intermediate beaches, the one formed by the most prominent of the ridges, the other by the sand thrown up at the foot of their vallies. Behind the beaches are pools of brackish water.”

The northern shore was first seen by Lieutenant Grant, who seems to have discovered the whole coast. He gave so favorable an account of the same that Governor King sent the *Lady Nelson* on a voyage of discovery, to ascertain the truth of Grant's report. To Murray belongs the credit of having been the first to enter the Bay; but, strange to say, it was visited almost simultaneously by Captain Matthew Flinders.

in the *Investigator*, and Captain Baudin, in the *Geographe*. A vigorous effort to form a settlement was made by the British Government in 1803; and the *Calcutta* (Captain Woodruff), with the *Ocean* transport, were sent out, and arrived safely in the Bay of Port Phillip. The expedition was under the charge of Colonel Collins, who held the rank of Lieutenant-Governor. The first lieutenant of the *Calcutta*, Mr. Tuckey, has left upon record a most interesting history of the expedition. The Lieutenant-Governor was promised £500 per annum. There were three lieutenants—Sladen, Johnston, and Lord; six non-commissioned officers, and thirty-nine rank and file. The expedition was accompanied by the following officials of the proposed colony: the Rev. Robert Knopwood, chaplain; Lieut. Frosbrook, deputy commissary-general; E. Ford Bromley, surgeon-superintendent; William Anson, colonial surgeon; C. Prideaux Harris, surveyor; John Clark and William Patterson, superintendents of convicts; and A. W. H. Humphries, mineralogist. There were 367 prisoners on board the *Ocean* (for the object of the expedition was to found a penal settlement). Happily for Victoria, they were unable to form a permanent settlement, and had to betake themselves to Van Diemen's Land. In reading the history of this first effort to colonise Victoria, we may almost be inclined to believe that an especial decree of All-wise Providence had gone forth, that a colony so fair and fertile should not be degraded by a convict origin. Nothing prospered with the settlement; and, as with the Pilgrim Fathers on their landing at New Plymouth, everything was found desolate and gloomy: sterile soil, and distressing scarcity of fresh water, appear to have given all connected with the expedition a perfect dread of the country; the whole of the convicts, with the exception of a few (amongst whom was the celebrated Buckley, who had escaped and taken to the woods), were re-embarked, and the establishment removed to the Derwent River. Lieut. Tuckey has left a history of this expedition. He seems to have had quite a literary turn, as he gave to the world a narrative of an expedition to explore the River Zaire, or Congo, in South Africa. He appears to have been an adventurous, brave, and ready-witted man; and so enthusiastically devoted to exploring, that, like many more of similar disposition, he sacrificed his life to his desire for the extension of geographical and scientific knowledge. It seems, however, that Colonel

Collins had landed on the eastern shore of the harbor, where the country is poor and sterile, and water scarce in several spots. It is quite apparent that no proper survey of the surrounding country could have been made, as there are several tracts of rich ground and excellent forest land at no great distance from the shore. Collins seems to have resolved to quit the shores of the bay without making a proper survey of the inlet; for, had he examined its shores thoroughly with his boats, he could not have helped discovering the Bay of Corio, and many spots of great attraction. He might have sailed up the Yarra and Saltwater rivers, and seen the beautiful and picturesque scenery upon their banks.

The literary Lieutenant made several exploring expeditions, and from an entry in the journal left by the Rev. Robert Knopwood to the following effect, that Lieutenant Tuckey had found a fresh water river more to the north-east of the Bay, it would almost appear that he had met with the Yarra; but if this was the case he could not have ascended it farther than its junction with the Salt Water River, where the banks used to be fringed with a dense tea tree scrub. The Lieutenant-Governor Collins, whatever were his views, appeared resolved to see nothing attractive, and he added his testimony to many others that it was unsuitable, and obtained permission from Governor King, of Sydney, to remove the establishment at once. Thus were the shores of Victoria left again to their own aboriginal inhabitants, and the country remained unnoticed for more than twenty years, when it was once more awakened by the surges of the vast sea of moving civilization, which, about the years 1840 and 1841, were spreading from the old and densely peopled countries of Europe to the virgin and unpeopled settlements of America and Australia.

Victoria, and with it, indeed, the whole of the Australian Colonies, owes a debt to those early explorers, particularly to Flinders and Bass; and it would not be grateful to pass this portion of its history without bestowing some attention upon two men whose names must be imperishably connected with Australia. Matthew Flinders was a native of Donington in Lincolnshire, and first sailed for New South Wales in 1795, in the vessel that brought out Governor Hunter; and Bass, who was surgeon of the ship, was his fellow passenger. Their enterprise to Van Diemen's Land has already been noticed, but previous

to this they had examined a considerable portion of the coast in a whale-boat, named the *Tom Thumb*. On the return of Flinders to England he was well received by George III., and was sent out in the *Investigator*, of 334 tons, with eighty men, to survey the southern coast of the continent. This he did with great care, and in the course of his progress he encountered the French ship, *Geographe*, Captain Nicholas Baudin, which had been surveying the coasts of Tasmania. Captain Flinders published in 1814 an account of his own voyages and also of those of his predecessors, Van Nuyts and Van Couver, as well as those of the French Admiral, D'Entrecasteaux, who had touched somewhere on the south coast of Australia during his voyage in search of the unfortunate La Perouse. It is melancholy to have to notice the brutal insults which Flinders received from the French Governor of the Mauritius. Having been driven to take refuge there he was detained six years, and subjected to the very worst treatment by the Governor. He was allowed to return after that period had elapsed, but his physical energies were shattered, and he died almost immediately after his book had issued from the press. The fate of his distinguished companion was still more deplorable. He went from Sydney in a ship which he was soon called on to command in the place of the master, who was indisposed. On approaching the South American coast Bass commenced to trade with the natives against the wishes of the Government, as it was supposed. He was kidnapped by the Spanish authorities, and sent to work in the silver mines, where he, no doubt, perished; no farther tidings of his fate ever reached Britain.

In taking leave of these old-fashioned writers and brave discoverers, we cannot but express the strong admiration we feel for a class who, like Cæsar, seemed to combine the tastes of literature with those of war and discovery. On their return to Britain, they gave their journals to the world in the shape of vast ponderous volumes, printed in great antiquated type; and the details are most minute of all that occurred, both at sea and on shore. The early governors of Australian settlements appear to have published the accounts of all their proceedings. Amongst the class of books described must be included the histories of Governors Phillip, Hunter, Collins, &c., which, for size and shape, form goodly companions on the shelves, side by side with the voyages of Flinders and La Perouse.

We have now to consider another order of interesting men, to whose exertions the Australian colonies owe much—the explorers of the interior. They are considerable in number: Oxley, Grey, Eyre, Sturt, Hume, Hovenden, Mitchell, Leichardt, and others of great personal merit. Few persons can form any conception of the difficulties which those who travel into the untrodden wilderness have to encounter. The courage necessary for such an undertaking requires to be of the very highest order. It is much superior to mere physical energy, which is frequently without any moral qualities. Such, however, as have possessed true moral courage have never displayed any want of the other; indeed, it has often been the moral that forced the physical into its service very much against its will. There is a well-known story related of Turenne, that, on entering a battle, his heart trembled, and his legs quivered. The great marshal said to them, “You would tremble more if you knew where I will take you.” It is this high moral courage which the explorer requires to possess in order that he may go forward with unwavering prudence and conduct. He requires self-reliance, in order that, whatever may be his own apprehensions, he may not exhibit the slightest symptoms of perturbation to the members of his party, even under the most adverse circumstances; which might lead to fatal results. He has no friend to advise with upon those sudden emergencies which often occur, and which demand self-reliance and decisive action. The records of the wonderful exertions in exploring that part of the Australian continent with which we are already acquainted form a most interesting library, and will always be read with interest. Those men were, in many cases, heroes and patriots, who have bestowed benefits upon every part of the Australian continent; and, throughout its length and breadth, their names should be had in grateful remembrance. Two respectable settlers of New South Wales, named Hume and Hovenden, have the honor of having been the first to explore the interior of Victoria, regarding which Mr. Oxley (surveyor-general of New South Wales) had promulgated the worst possible rumors.* Animated by a thirst for distinction, and a desire to

* “We had demonstrated, beyond a doubt,” said he, “that no river could fall into the sea between Cape Otway and Spencer’s Gulf, at least, none deriving their waters from the eastern coast; and that the country south of the parallel of 34, and west of the meridian of 147°30 east, was uninhabitable, and useless for the purposes of civilized men.”—*Oxley’s Journal*.

extend the boundaries of the civilized country, in order that more runs for stock might be discovered, the two adventurers set forth upon their arduous undertaking in the end of 1824.

On the 17th October they left Mr. Hume's station, the last which was then occupied on the Victoria side, and on the 19th they passed Yass, and reached the banks of the Murrumbidgee, which was so swollen by the rains as to have become utterly impassable. It was from thirty to forty yards in breadth, and the rate of the current at the place where they attempted to cross was between five and six miles an hour. The party waited until the 22nd, when, finding no appearance of the water abating, it was determined that the passage of the river should at once be attempted; and, having formed an ingenious substitute for a punt, in the body of a cart, the whole party was enabled to cross to the left bank. They then had a long and tedious journey over ranges and ravines; but found the country, in many parts, well grassed, and of a very superior character. On the 14th November Messrs. Howell and Hume climbed to the summit of Mount Battery. The Snowy Alps were visible, with the view bounded on each side by mountain ranges. The whole of the intermediate country had one general character,—"Slight undulations, interspersed here and there, more or less numerous, with conical or mastoid hills of various, but never of considerable, elevation."* On the 16th they arrived suddenly on the banks of a large river, which was named after Mr. Hume, who was the first to see it. This turned out to be the head of the Murray. It is mentioned as a beautiful stream, not less than eighty yards broad, the current about three miles an hour, the banks clothed with verdure to the water's edge; on each side of the river was a perpetual succession of lagoons, furnished with an inlet from the river and an outlet into it. The spaces between the lagoons and the river consisted of swamps and unsound ground, thickly timbered with blue-gum, overgrown with vines, fern, peppermint, flax, and currajong. They found abundance of codfish in the river, and caught numbers of bream and carp in the adjoining lagoons. There were wild ducks in the greatest abundance, and plenty of large muscles in the muddy holes.

The party found it very difficult to cross the Hume, and, after having

* "Journey of Discovery to Port Phillip, in 1824 and 1825," by W. H. Howell and H. Hume. Tegg: Sydney, 1837.

examined the river for some distance down the stream, they proceeded upwards for about twenty miles; and on the 22nd they managed to cross by means of a temporary boat, hastily constructed of wicker-work, and covered with tarpaulin: they experienced some difficulty in getting clear of the swamps and lagoons which skirted the river. On the 24th they arrived at another river, which was crossed on the following day. They named it the "Ovens," after the deceased Major Ovens, who had been private secretary to Sir Thomas Brisbane. On the 3rd December they crossed the Goulburn without difficulty; and on the 9th reached Mount Disappointment, which is better known as the "Big Hill." They were unable to cross this range, which was "bush and rock," over which they scrambled, with great difficulty, on their hands and knees. They had, moreover, the misfortune to encounter a great quantity of the long grass, known as cutting-grass, between four and five feet high, the blade an inch and a half broad, the edges exquisitely sharp. After every exertion had been made, and every effort had failed, the party had to make a long detour to avoid this inhospitable portion of the dividing range; but at last, after considerable trouble, they managed to cross on the 13th December. On the 14th they travelled twenty miles in a southerly direction, over a level country, interspersed here and there with hills of a conical form. On the 15th they met with traces of natives, and on the 16th they reached the "so long and earnestly desired bourne of their labors—the sea," somewhere near the present town of Geelong. The following account of their interview with the natives is recorded in the *Journey of Discovery of Messrs. Howell and Hume*: "This morning a man, James Fitzpatrick, having proceeded a short distance, was attacked by the natives, but escaped. About two hours after this, as two of the people were procuring firewood in a small clump of trees, not far from the tent, two natives sprang towards them from behind trees; these, however, on the men presenting their muskets at them, made signs of peace. Mr. Hume, who was, at hand, now approached, when, laying down his arms and beckoning to his men to do the same, the natives followed the example, and proceeded to the tent with Mr. Hume. These people began to be a little better understood when they seemed to wish to describe that a vessel had been in that Bay, and that the people had landed, and to imply that both the master and the

people were continually in a hurry, a notion, perhaps, formed from the mere routine employment of the settlers, and which, compared with their own habits of indolence and utter ignorance of labor, might wear that appearance. They also appeared to point out where the vessel lay,—endeavored to explain that they had seen the men felling trees (alluding, probably, to the original settlement of Port Phillip). These natives were cunning and treacherous—inquisitive, troublesome, and great thieves. They did not seem astonished at the horses or bullocks, though evidently much afraid of the latter, and even dreadfully alarmed if the bullocks, although at a considerable distance, were looking towards them. The name they gave the bay was Geelong; a mount near they designated Woolloomata; water was goolamo; a bird, bonering; a dog, narranuke."

The party was desirous of proceeding westward to examine the country; but the threatening conduct of the aborigines, and the number of fires around them (evidently as signals) deterred them, and induced them to commence their homeward journey. They recrossed the Hume on the 3rd of January, without any difficulty, and the Murrumbidgee on the 17th, and on the 18th arrived safely at Mr. Hume's station, on Lake George. The party had only been absent sixteen weeks. The journey displayed remarkable judgment, energy, and intrepidity on the part of the leaders; and the result was the refutation of the hasty opinion given by Oxley in reference to the district they had explored, and the opening up of the whole of Australia Felix to the enterprise and colonising efforts of their fellow-countrymen.

It was, however, a considerable time before the results which might have been anticipated from such an important discovery began to exhibit themselves. A second effort to found a penal settlement was, however, made by Governor Darling, and Captain Howell the explorer was placed in charge of it. From some cause not very clearly defined it had to be abandoned. Captain Howell, however, gave a tolerably faithful description of the country. He says, "Western Port affords safe anchorage for vessels of any draught of water. The settlement lately formed by the Government, but since abandoned, was situate on the eastern side of the bay. This was but scantily supplied with good water. The country from this spot to Bass River consists principally of a rich alluvial soil, interspersed, here and there, with patches of heath. * * * *

The space between Wright's River, Cape Patterson, and Shallow Lagoon, consists of a low undulating heathy surface, badly watered, with, here and there, a patch of good timber. At Cape Patterson coal is plentiful and good, lying partly above the surface, and some of it jutting into the sea."

In the year 1886, the Sydney Government resolved upon the equipment of an expedition, under the command of Sir Thomas Mitchell, the surveyor-general of New South Wales, to complete the survey of the Darling and the Murray, and, as far as practicable, the country on the left bank of the latter river, which now forms the colony of Victoria. The preparations for this memorable journey were made with great care: the party was selected and organized by the distinguished explorer who was to take charge of it, and consisted of the following persons:—Major T. L. Mitchell, chief of the party; C. C. Stapylton, Esq., second in command; Alexander Burnett, overseer; Robert Muirhead, second overseer; Charles Hammond, William Thomas, Richard Lane, James M'Lelland, Charles Webb, bullock drivers; John Johnston, Walter Blanchard, blacksmiths; William Woods, Charles King, John Gayton, horse carters; John Drysdale, medical attendant; John Roach, collector of birds; John Richardson, collector of plants; John Palmer, John Douglass, sailors; Joseph Jones, shepherd; James Taylor, groom; Edward Pickering and Archibald M'Kean, carpenters; James Field, shoemaker; Anthony Brown, cook. Mitchell was in high spirits when he finally started on this important expedition, on the 17th June. He says, "Dr. Johnson's 'Obadiah' was not more free from care on the morning of his journey, than I was on this, the first morning of mine. It was St. Patrick's Day, and, in riding through the bush, I had leisure to recall past scenes and times connected with the anniversary. I remembered that, on this morning, twenty-four years before, I marched down the glaxis of Elvas, to the tune of 'St. Patrick's Day in the Morning,' as the sun rose over the beleaguered towers of Badajos: now, without any of the pride or pomp of war, I was proceeding on a service not very likely to be peaceful, for the natives here assured me that the Myalls were coming up, very angry, to meet us."* On the 23rd of May, the expedition reached the Murray, without any accident worthy of notice; but, like Captain Sturt, who

* Mitchell's Expeditions, vol. ii.

had, a short time before, passed down this stream, they found the aborigines very troublesome; and, after several skirmishes, an actual collision took place on the 27th May, and about eight of the most troublesome were killed. This unfortunate event occurred at Mount Dispersion, and, although much regretted by the leader of the expedition, had yet the salutary effect of permanently delivering the party from the imminent danger of being murdered by these savage and treacherous barbarians. The party proceeded without farther annoyance, and crossed the Murray on the 13th June, into that portion of the Australian continent which constitutes the Colony of Victoria. Proceeding up the left bank of the Murray, the party reached Lake Boga on the 20th, where an encounter between the natives and Piper (the black fellow attached to the exploring party) occurred, and resulted in one of the strange tribe being shot. Mitchell proceeded, by Mount Hope, towards the Grampians, crossing the Wimmera, near Mount Zero, with considerable difficulty, passing Mount Arapiles to the right, and arriving at Greenhill Lake on the 24th July. The Glenelg was soon reached, where the two boats were hoisted out, loaded with the provision necessary, and the chief, with sixteen men, proceeded, on the 18th August, to descend the stream. "The scenery on the banks," says Mitchell, "was pleasing and various; at some points, picturesque limestone cliffs overhung the river, and cascades flowed out of caverns hung with stalactites; at others, the shores were festooned with green dripping shrubs and creepers, or terminated in a smooth, grassy bank, sloping to the water's edge. But none of the banks consisted of water-worn earth: they were, in general, low and grassy, bounding the alluvial flats that lay between the higher points of land. The river soon opened to a uniform width of sixty yards." On the 19th Mitchell saw Mount Gambier, bearing 57 deg. W. of N.; on the 20th he reached the mouth of the river, which he named Discovery Bay.

Having re-ascended the Glenelg to the depot at Fort O'Hare, where the stores had been left, Mitchell crossed the Crauford, following the line of that river for a considerable distance; he next proceeded by Mount Eckersley and the Fitz Roy to Portland beach. His astonishment was considerable to behold a vessel at anchor and dwelling houses or sheds erected on the shore; he thus describes the settlement at this place. "Proceeding round the Bay, with the inten-

tion of examining the head of an inlet, and continuing along shore as far as Cape Bridgewater, I was struck with the resemblance to houses, that some supposed grey rocks under the grassy cliffs presented; and while I directed my glass towards them, my servant, Brown, said he saw a brig at anchor, a fact of which I was soon convinced, and also that the grey rocks were in reality wooden houses. The most northern part of the shore of this Bay was comparatively low, but the western consisted of bold cliffs rising to the height of 180 feet. We ascended these cliffs near the wooden houses, which proved to be some deserted sheds of the whalers. One shot was heard as we drew near them, and another on our ascending the rocks. I then became somewhat apprehensive that the parties might either be, or suppose us to be, bushrangers, and to prevent, if possible, some such awkward mistake, I ordered a man to fire a gun and the bugle to be sounded; but on reaching the higher ground we discovered not only a better path but the track of two carts, and while we were following the latter, a man came towards us from the face of the cliffs. He informed me, in answer to my questions, that the vessel at anchor was the *Elizabeth*, of Launceston, and that just round the point there was a considerable farming establishment belonging to Messrs. Henty, who were then at the house. It then occurred to me that I might there obtain a small additional supply of provisions, especially of flour, as my men were on very reduced rations. I therefore approached the house and was kindly received and entertained by the Messrs. Henty, who, as I learned, had been established upwards of two years. It was very obvious, indeed, from the magnitude and extent of the buildings and the substantial fencing erected, that both time and labor had been expended in their construction. A good garden stocked with abundance of vegetables already smiled on Portland Bay; the soil was very rich on the overhanging cliffs, and the potatoes and turnips produced there, surpassed in magnitude and quality any I had ever seen elsewhere. I learnt that the Bay was much resorted to by vessels engaged in the whale fishery, and that upwards of seven hundred tons of oil had been shipped that season. I was likewise informed that, only a few days before my arrival, five vessels lay at anchor together in that Bay, and that a communication was regularly kept up with Van Diemen's Land by means of vessels from Launceston.

Messrs. Henty were importing sheep and cattle as fast as vessels could be found to bring them over, and the numerous whalers touching at or fishing on the coast were found to be good customers for farm produce, and whatever else could be spared from the establishment. Having witnessed the excitement of a 'whale hunt' from the verandah of Messrs. Henty's house, and been most kindly supplied with a small quantity of flour (the stock of the settlement being very low at the moment), and as many vegetables as the men could carry with them on their horses, Mitchell returned to Fort O'Hare, on the Glenelg, and at once broke up the depot and commenced his journey home. He traversed four hundred miles in his route, and named Mounts Macedon and Alexander, and the rivers Hopkins, Wannon, Campaspe, and Goulburn, rivers which he passed. On the 24th of October, when the provisions had failed, and the men of the party were becoming very discontented in consequence, he made a small station on the Murrumbidgee belonging to a man named Billy Buckley, who supplied their immediate wants, and a further supply was obtained from the drays of Mr. Thompson, which happened fortunately to pass.

This journey, with other concurrent events, led to the immediate settlement of Victoria. The glowing descriptions which the Surveyor-General of New South Wales gave to the world of the country he had traversed in this expedition excited the utmost interest not alone in the colonies, but also in Great Britain, and many a longing eye began to be turned towards Australia Felix.



CHAPTER II.

Colonization : its importance as an Element of History—Rise and Fall of Great Nations—Probable Greatness of Australia—Victoria the Natural Centre of Civilization—Early Founders of the Colony—The Settlement of Portland by Mr. Henty—The Early History of John Batman—Batman's Visit to Port Phillip, and Purchase of Land from the Natives.

COLONIZATION is the most important subject which presents itself either to the student of history or the political economist. From the earliest times to the settlement of the Anglo-Saxon race on the continents of America and Australia, the history of colonization is simply a record of the rise of great nations and populous cities. The colonizing efforts of Spain are a series of romantic adventures, and Cortez and Pizarro are as complete heroes as mythology can boast.

That once powerful country possessed herself of a considerable portion of the New World, but her system of government was so vicious, in oppressing her dependencies in order to enrich the parent State, that she exhausted the former without warding off her own fate. The greatest and most popular of French historians* has accused Britain of being actuated by similar motives, and of following the same course, and has prognosticated a similar result; but, by timely concessions and a wise policy, England may avert, at any rate for a time, a fate so inglorious. When Spain declined and the fleets of the Dutch Republic had also disappeared from the ocean, Great Britain assumed the place which both nations had occupied. With no rival able to compete with her on the seas, her mission ought to have been to enlighten the dark and dreary wastes of the globe and bring them within the pale of civilization—to reclaim great countries, which were either unoccupied or held merely by a few erratic tribes, into corn fields and pasture lands. If England has not done as much as might have been expected from the means at her command, it will scarcely be denied,

* Michelet.

even by the French historian alluded to, that she has founded two great countries, which are yet destined to occupy a considerable space in the world's history : it may be when the parent State and her great rival, France, have sank into the sepulchre of nations.

Western Europe is, unquestionably, at this moment, the centre of civilization. Great Britain and France have, however, no reason to anticipate that their ascendancy in war, commerce, arts, and literature will continue unchecked ; for history will show that no nation has continued, for a very long period, to stand in the foremost rank. An Englishman will point to London, the centre of the commerce and civilization of the world, and inquire if it is likely to be affected by ordinary casualties ? But nations as powerful and cities as great have decayed, and the very spots on which they stood are unknown. What visions arise of Thebes, Nineveh, Babylon, Tyre, Palmyra, Baalbec, and others, of which hardly a trace is left,—of Jerusalem, Carthage, Athens, and a host of others, which would weary the reader to have enumerated, and of which a few miserable huts only remain, as if to mark their former splendor. Pagan Rome, like other great emporiums, fell into decay, but she emerged once more into light as the centre of a vast religious system and the residence of the Pontiffs, in the middle ages.

The great cities of antiquity, like London, had their era ; in their zenith they were generally the emporiums of the commerce of the world, and often the head-quarters of literature, arts, and science. Strangers from the remotest quarters of the globe hastened to look upon spots so famous. In threading their crowded thoroughfares and observing the gaiety and business which surrounded them, turn where they would ; in gazing on the colossal edifices and magnificent palaces which spread far and wide,—they might be pardoned if they supposed that such greatness might defy time. The canker was, however, often at work when these mighty places of the earth appeared to be at the zenith of their fortunes. History exhibits them in her mirror as bright and prosperous for a long period ; then the record becomes troubled and uncertain, and at last they disappear into the general gloom which envelopes the mighty past. In many cases their descent into total oblivion was far more rapid than had been their ascent to fame. Civilization left them to sojourn in some more favored seat, in

many cases an off-shoot or colony of their own, which had slowly emerged into notice. How little could an Egyptian have imagined that Greece would have been great when neglect had overtaken his own country; or an Athenian, at another period of history, that Rome would eclipse his native city; or a Roman citizen, in the army of Cæsar, that Gaul and Albion would be far greater countries than the then all-powerful Italy. History presents us with change succeeding change as uniformly as wave rolls after wave on the surface of the ocean. The most superficial observer must have noticed that the power and influence of Britain is already spreading towards the southern hemisphere, where, at no distant day, civilization is destined to find an asylum. Australia, in addition to her natural resources, has mighty advantages of a naval and commercial character, and is likely to progress with wonderful rapidity, while the proud position which Victoria occupies in the very heart of the Australian settlements, as well as her own natural capabilities, point her out as the centre of civilization in the south. Her territorial position; her wonderful progress in already far outstripping all the other Australian settlements in wealth, population, and business; and her yet undeveloped pastoral, agricultural, and mineral resources; lead us to believe that she will become as great a nation as the world has yet seen.

The study of history gives a substantial reward. It delights the student by the record of noble deeds and heroic achievements it presents; while the philosophical instruction it instils into his mind makes him better and wiser. The office of the historian is, perhaps, higher than that of the poet; and his responsibility is far greater. He ought to afford the highest place to the most virtuous, rather than to the greatest, nations, who boast power ill acquired. The study of statesmen ought to be to lay the foundations of national glory upon virtuous and enlightened principles; and, in emergencies, when called upon to decide between the moral and material prosperity of their country, they should give the preference to the former. The honest and patriotic statesman ought, in every case, to receive the applause of the historian; while those time-serving, factious, and dishonest politicians, who occasionally guide the helm of public affairs, should not be sheltered from the just indignation which their conduct deserves.

Victoria was settled by voluntary efforts, and, as some of her early

enemies admitted, never cost the mother country a farthing.* Many persons have talked and written in a disparaging strain of the early colonists, but their enterprise and indomitable perseverance have never been excelled by any community, large or small. The political history of the settlement during the first fourteen years of its existence is but a continual struggle for emancipation from the unnatural union with New South Wales. The ultimate deliverance of the colony from a system of cruel oppression gives encouragement to oppressed people in every part of the world to persevere in their exertions for deliverance. Victoria, at length freed, commenced her independent existence under the fairest auspices. The spirit of her early politicians has been breathed into her political institutions, which are as free as any people need desire. Under responsible government, she enjoys the protection of the parent state without being in any way interfered with in her internal affairs. Not long since the *Times* had the following remarkable passage:—"Amidst the spoils of every clime Britain nowhere sees the likeness of herself. A true child of the majestic mother is nowhere to be found. We have stocked plantations with slaves; we have occupied rocks with soldiers, and peopled solitudes with crime; we have increased the nominal rent-roll of the empire by almost any compliance and at any expense. Yet the Englishman who once embarks from these shores will never again see happy England till he returns." In Victoria the *Times* will find this great desideratum in colonization. Britain has wisely left her to make her own laws and carry out her own government. The early politicians laid a solid foundation for legislation, and it only requires men to govern who possess ability and honesty in order that the *Times* may be gratified in witnessing a second happy England at the antipodes, and planted in a region, to use the words of its discoverer, "of vast resources and the most varied and fascinating description, more extensive than Great Britain, equally rich in point of soil, and which is now ready for the plough, as if especially prepared by the Creator for the industrious hands of Englishmen."†

The founders of great cities, where any trace of them has remained, have always received a considerable place in history. The student

* Sir George Gipps.

+ Sir Thomas Mitchell.

can hardly read the account of the founding of Rome, or the landing of the Pilgrim Fathers at New Plymouth, without his fancy bringing up pleasing pictures of Romulus and John Carver. Amongst those who lay claim to be considered the founders of Victoria, the name of Batman is already entwined with many romantic associations. Buckley, although a very common-place character, has a history replete with incident and wild adventure. In after ages, when Victoria has become a great and powerful country, these two, with Fawkner, Henty, and others, will have many a warm tribute paid to their memory by thousands who will be indirectly benefitting by their toils.

In recording the permanent settlement of Victoria, it is impossible not to be struck with the fact that it was the very people, or their representatives, who had abandoned the colony in 1804, who now, after an interval of a quarter of a century, returned from Van Diemen's Land to form permanent establishments on its shores. In 1834 Mr. Thomas Henty, who had emigrated to Launceston from West Tarring, near Arundel, in Sussex, explored a considerable portion of the southern coast of New Holland, with the view of obtaining a spot suitable for stock. This gentleman had seven sons, two of whom are now hon. members of the Legislative Council of Victoria, and another a member of the Legislative Assembly of the same colony. Mr. Henty selected a tract near the present town of Portland, and made application to the Government for a grant of 20,000 acres of land. Expecting that his request would be acceded to, as a matter of course, he sent two of his sons over with some stock. These gentlemen arrived safely, and took possession of the appointed spot, which they have never abandoned. In this way the first really permanent settlement was formed in the colony of Victoria. The Secretary of State was informed of the fact, and the Messrs. Henty again pressed their claims for a grant of land. Lord Aberdeen, in a letter to the Earl of Surrey (through whom the application had been made), declined to make any grant; he said, however, in the concluding portion of his letter, "I regret to acquaint your lordship that I cannot hold out to Mr. Henty the pledge which he requires, viz., 'That, in the event of the district in the neighborhood of Portland Bay ever becoming a permanent colony, they will protect Mr. Henty in his right of settlement; that is, they will not disturb, but will confirm, his pos-

sessions against any new comer,' although I am not prepared to say that Mr. Henty's pretensions to any land, *actually brought under cultivation by him, and surrounded by a proper fence*, would not be favorably looked upon by His Majesty's Government at a future period, should the increase of the population of New South Wales or other circumstances extend the settlement of the territory to the quarter where Mr. Henty may have established himself." Mr. Henty, although disappointed in his expectations of receiving a grant, yet considered the above so encouraging, that he persevered, trusting that, when he had fenced and cultivated, and otherwise improved, his application would be more favorably received; and he and his family, therefore, commenced operations on a more extensive scale. They imported large quantities of stock, and erected substantial houses, when, unfortunately, this enterprising settler, who had established an important colony, died. This melancholy event occurred in October, 1839, at Launceston, in Van Diemen's Land. As the founder of the valuable district of Portland, and the first *bona fide* settler in Victoria, the name of Mr. Thomas Henty ought to be a household word amongst its people for ages.

At this time the Messrs. Henty (the sons of the deceased, Mr. Thomas Henty) occupied six stations; the value of their buildings at Portland alone was £5,000. They had fenced in 135 acres, which was under crop, and formed a road into the interior. The total value of their improvements was estimated at £8,000 to £10,000. About the same period the Sydney Government resolved upon opening up a township at Portland, and the surveyors were sent there to align the streets and measure off the town and suburban allotments. Up to this time the Messrs. Henty entertained sanguine hopes, from the tenor of Lord Aberdeen's letter, that "any land actually in cultivation, and surrounded by a proper fence," would be granted to them. At this period they submitted a memorial to the Governor, explaining the circumstances, and praying, "That they should obtain a deed of grant of all the land absolutely fenced in and occupied at Portland Bay, as provided for by the letter of Lord Aberdeen; or, should the colonial government consider the obtaining these lands indispensable to the establishment of the town, then, that they should be allowed, as remission, a sum equal to the value of the land, to be estimated at the average rate at which the first allotment might sell; and that to this sum should be added the value of the buildings and improvements, to be estimated by persons appointed on both sides, or

by some competent board. That, in the event of the first alternative being adopted, then, that some compensation, by remission in the purchase of land, should be given in consideration of the bridges built, the roads made, and the general improvements effected; and, moreover, as compensation for the inland improvements at the different stations, consisting, as before stated, of building and fencing. But should it be determined not to admit, in any present arrangement, a compensation for the improvements at the inland stations, inasmuch as they are not to be at present interfered with, and may be said to be as available to your memorialists now as heretofore; still, they would ask that, in the event of these fenced stations being thrown into the market, they should be allowed either to purchase them, or the portions of land on which they may be situate, at the average price at which the parish allotments may sell." To this memorial a reply was received, in substance, that the Governor and Executive Council regretted to inform the Messrs. Henty that the letter from Lord Aberdeen contained no authority for the occupation of lands at Portland Bay, and that they could see no ground on which their case could be distinguished from other unauthorized occupiers of Crown lands, whose applications of a similar nature had been refused, and who would have reason to feel aggrieved if the Government failed to preserve uniformity in its decisions. Not deterred by this unmitigated refusal, the Messrs. Henty resolved upon laying a statement of their case before the Colonial Secretary of State and the Imperial Government. It is succinctly and ably set out in a printed work which was published in 1841.* A distinction is attempted to be drawn between this particular case and any unauthorized occupiers of Crown lands, from the passage in Lord Aberdeen's letter to the Earl of Surrey, which, it is contended, gave official sanction to their occupation. As no other person, situated in the same way with respect to occupation of land in Australia, had claims founded upon the letter of the Secretary of State, it is contended that the grant of lands as compensation to them could not be a precedent for others, who could not rest their claims upon the same foundation. The document refers to

* "A statement of the claims of the Messrs. Henty upon the colonial Government for a confirmation of their title to lands brought into cultivation by their father and themselves at Portland Bay." London: Orger and Meryon.

the first colonizers of Port Phillip, who came to the colony subsequently to the settlement of the Messrs. Henty at Portland Bay: the former erected some trifling buildings, but they cultivated no land; they made no roads or bridges; and their improvements cost them not a tenth part of those of the Messrs. Henty. They led the way to the future settlement of Port Phillip, as the claimants did to Portland Bay; but in forming the Port Phillip settlement they were guided by the example of the Messrs. Henty, and profited by their experience and information. The government required the lands at Port Phillip upon which the settlers had located themselves. They memorialised the government for compensation, and obtained £7,000." The statement then notices the document which some of the Port Phillip settlers, in return for a few blankets distributed, obtained from the ignorant natives, which purported to be a contract for the purchase of land, and argues that it was worthless, as the natives, being totally unable to form any idea of property, and unconscious that there could be any right in themselves, would have sold the whole territory of Australia for a few handfuls of flour. The Messrs. Henty had the assent of the natives, but considered that "any attempt on their part to assert a title derived from any written contract with the natives, who had no conception of its meaning, would expose them to the charge of designing to impose on the government."

The claims put forward by the Messrs. Henty were never recognised, and, in calmly reviewing the whole circumstances of their case, any impartial person will, we think, admit that they received but scant justice. It is evident that Lord Aberdeen scarcely understood the land regulations of the colony when he made the vague and guarded promise that led those gentlemen to expect a free grant of land fenced and brought into cultivation; but, the promise having been given, they ought to have received their enclosed land, at any rate, at the upset price. This favor they did not obtain, and had to compete for their farms at public auction. Upon what principle of justice could the government of New South Wales give the association that took possession of Port Phillip £7,000, and refuse to give the Messrs. Henty a single farthing?

A pioneer of civilization, however, to the metropolitan district seems destined to occupy a much larger space in our history than the elder

his mind. This ought to have been a happy time with Batman: he had an excellent farm and an interesting family; his operations in agriculture were chiefly carried on by Sydney aborigines, who had become a part of his domestic establishment. Batman, however, appears to have been a second Crusoe, bent on further adventure; but it was not until 1835 that he found the people ready to second him. He had waited patiently for this, and he was ready to act when he saw public feeling in his favor.

In the year 1835 a number of respectable persons associated together to co-operate with Batman in his projected colonizing scheme. Amongst the number were several well-known in the early days of the Port Phillip settlement, viz.,—James Simpson, J. T. Gellibrand, Charles Swanston, George Mercer, and John Helder Wedge. It was determined that Batman should at once cross over to the other shore, in order “to ascertain the general character and capabilities of Port Phillip as a grazing and agricultural district.”

On the 10th May Batman embarked on board the *Rebecca*, a craft of thirty tons, engaged for the expedition, then lying in the river Tamar, about four miles below Launceston. He was accompanied by seven Sydney natives who had worked on his farm in Tasmania, and three white adherents. The voyage, which had the effect of opening up that part of this colony which surrounds the Bay of Port Phillip, had a most inauspicious opening, for the *Rebecca* was detained by contrary winds on the Tasmanian coast until the 27th, when a favorable breeze was obtained, and, on the 29th, at day-break, the Heads were in sight, and the *Rebecca* effected an entrance with difficulty, and, sailing about twelve miles up the Bay, anchored in a small bay, near Indented Head. It was an eventful day for Batman, as he landed and made a tour into the country with Captain Harwood, returning to the vessel at night, after a ramble in which they walked about twenty miles. Batman and the Sydney natives thought nothing of this, but the captain was quite knocked up. They found the new land all that could be wished. Batman says, in his journal, “We were perfectly pleased with the country at this part. We found it to open around into softly undulating hills and plains, with, as before, the richest grass and verdure, so delightful to the eyes of the sheep farmer.” The following day the vessel proceeded some fifteen miles further in the direction of Geelong,

and Batman landed and had a ramble. He describes the country here as "exceedingly rich, and beautiful in the extreme; thinly timbered and richly grassed." Batman had seen the fires of the aborigines and also several of their gunyahs or huts, but did not fall in with any of their number until the 31st, when he discovered a considerable body. This proved to be the females and children of a tribe, the males being absent on a hunting expedition. The ladies understood the Sydney blacks, and received the strangers with great politeness. Before taking his leave, Batman distributed a number of blankets, pocket-handkerchiefs, necklaces, looking-glasses, &c., amongst them. Batman made a general survey of the land around the Bay of Port Phillip, and on the 6th of June he again fell in with a body of natives, to whom presents of knives and tomahawks were made, and having visited their camp, where he found eight chiefs, he purchased a large tract of land around the site of Melbourne. This transaction will be best described in Batman's own words:—

"We sat down in the midst of these sooty and sable aboriginal children of Australia; amongst whom, we ascertained, were eight chiefs belonging to the country near Port Phillip, over which we had travelled, and with which we had so much reason to be pleased. The three principal chiefs were brothers. Two of them were fully six feet high, and tolerably good-looking; the third was not so tall, but much stouter than the others. The other five chiefs were equally fine men. And a question, to myself, here arises, and the answer as speedily follows, viz.: now is the time for entering into and effecting a purchase of their land. A full explanation, that my object in visiting their shore was to purchase their land, they appeared to understand; and the following negotiation or agreement was immediately entered into:—I purchased two large blocks or tracts of land, about 600,000 acres, more or less, and, in consideration therefor, I gave them blankets, knives, looking-glasses, tomahawks, beads, scissors, flour, &c., and I also further agreed to pay them a tribute or rent yearly. The parchment or deed was signed this afternoon by the eight chiefs, each of them, at the same time, handing me a portion of the soil: thus giving me full possession of the tracts of land I had purchased." *

* "Batman's Journal."

Batman had regular deeds drawn up on the spot, conveying the land, which having been signed with all due solemnity, the chiefs laid their "royal mantles" at his feet; these he donned, no doubt considering himself King of Port Phillip. The most extraordinary circumstance connected with this transaction is the favorable impression Batman gives of the aborigines, which differs so materially from the evidence of all other writers who had fallen in with them. Tuckey had found them treacherous and dishonest; Hume and Hovenden and Sir Thomas Mitchell had never received any attention or kindness from them, but, on the contrary, had found them rather cruel and treacherous, or so wild that they would not approach. Batman, however, found them civilized and hospitable, and parted with them on excellent terms. On returning to the vessel, Batman "crossed, on the banks of the river, a large marsh, one mile and a half broad by three or four long, of the richest diluvium: not a tree was to be seen. Upon the borders of this extensive marsh or swamp we disturbed large flocks of quails. In one flock the birds were so numerous as to form a dense cloud. I shot two very large ones. At the upper part of this swamp is an extensive lagoon, at least a mile across; its surface was covered with swans, geese, ducks, and other aquatic fowl. Having crossed this marsh, we passed through a dense tea-tree scrub, very high, expecting to make the vessel in the course of an hour or two; but, to our great surprise, when we got through we found ourselves on the banks of a much larger river than the one we had originally gone up. As it was now near sundown, and at least two days would be required to head the river, I decided upon allowing two of my Sydney natives to swim across it, and to go to the vessel, distant about seven miles, to fetch the boat. Bullet and Bungit started on this enterprise, and returned in about three hours from the time of their departure. Their return with the boat was most opportune, as we had got on the point of junction of the two rivers, where the tide had set in, and was already up to my ancles. I first despatched the party with the dogs in the boat to the opposite bank, and, on the return of the boat, myself and old Bull, who had cut his foot, went, in first-rate style, to the vessel."*

From this extract it appears evident that it was the junction of the

* "Batman's Journal."

Yarra with the Saltwater River which Batman had accidentally fallen in with in returning to the *Rebecca*. He now determined upon returning to Van Diemen's Land; but, in order to secure the noble domain which he had purchased, he formed a settlement at Indented Head, near Swan Point, about twelve miles from the Heads. He left his three white companions or followers, Gumm, Dodds, and Thompson, here, and five of his Sydney natives, Bungit, Bullet, Old Bull, Pigeon, and Joe the Marine, with directions to erect a hut and commence a garden. He also left six dogs. Gumm received written authority to "warn all persons found trespassing on the land he had purchased from the natives." He sailed for the heads, and on the 11th June reached Launceston.

CHAPTER III.

Exertions of the Association to have the Purchase from the Natives Ratified—John Pascoe Fawcner forms a Party in Launceston—The voyage of the *Enterprise* to Port Phillip—The Party Disembark their Stock on the banks of the Yarra—Settlement of Fawcner and his Associates at the New Township—The Discovery of Buckley amongst the Natives, and his History—Proclamation of Sir Richard Bourke—Disputes between Fawcner and Batman.

THE return of Batman, with the intelligence of the discoveries he had made at Port Phillip, excited no ordinary interest in the colony of Tasmania. A report of Batman's proceedings was drawn up by the Association, and forwarded to Colonel Arthur, who appears to have been an avowed friend. The most interesting of the papers forwarded to the Colonial Government was the much-talked-of conveyance from the natives of Port Phillip to Batman, which is of considerable importance. It is as follows:—

"Know all persons, that we, three brothers Jagajaga, Jagajaga, Jagajaga, being the three principal chiefs, and also Cooloolock, Bungaria, Yanyan, Moowhip, Monmarmalar, being the chiefs of a certain native tribe called Dutigallar, situate at and near Port Phillip, called by us, the

above-mentioned chiefs, Irausnoo and Geelong, being possessed of the tract of land hereinafter-mentioned, for and in consideration of 20 pair of blankets, 30 knives, 12 tomahawks, 10 looking glasses, 12 pair of scissors, 50 handkerchiefs, 12 red shirts, four flannel jackets, four suits of clothes, and 50 lbs. of flour, delivered to us by John Batman, residing in Van Dieman's Land, Esquire, but at present sojourning with us and our tribe, do, for ourselves, our heirs, and successors, give, grant enfeoff and confirm unto the said John Batman, his heirs and assigns, all that tract of country situate and being in the Bay of Port Phillip, known by the name of Indented Head, but called by us Geelong, extending across from Geelong harbor, about due south, for 10 miles, more or less, to the head of Port Phillip, taking in the whole neck or tract of land, containing about 100,000 acres, as the same hath been before the execution of these presents delineated and marked out by us, according to the custom of our tribe, by certain marks made upon the trees growing along the boundaries of the said tract of land, with all advantages belonging thereto, unto and to the use of the said John Batman, his heirs, said tract of land, and place thereon sheep and cattle, yeilding and delivering to us and assigns, to the meaning and intent that the said John Batman, his heirs and assigns, may occupy and possess the same, and our heirs and successors, the yearly rent or tribute of 50 pair of blankets, 50 knives, 50 tomahawks, 50 pair of scissors, 50 looking glasses, 20 suits of slops or clothing, and two tons of flour. In witness thereof we Jagajaga, Jagajaga, Jagajaga, the three principal chiefs, and also Cooloolock, Bungarie, Yanyan, Moowhip, and Monmarmalar, the chiefs of the said tribe, have hereunto affixed our seals to these presents, and have signed the same. Dated, according to the Christian era, this 6th day of June, 1835.

Signed, sealed and delivered in the presence of us, the same having been fully and properly interpreted and explained to the said chiefs.

(Signed)
JAMES GUMM.
WM. TODD.

JAGAJAGA, his x mark.
JAGAJAGA, his x mark.
JAGAJAGA, his x mark.
COOLOOLOCK, his x mark.
BUNGARIE, his x mark.
YANYAN, his x mark.
MONMARMALAR, his x mark.

Signed

JOHN BATMAN.

Be it remembered that, on the day and year within written, possession and delivery of the tract of land within-mentioned was made by the within-named Jagajaga, Jagajaga, Jagajaga, Cooloolock, Bungarie, Yanyan, Moowhip, Monmarmalar, chiefs of the tribes of natives called Duttigallar Geelong, to the within named John Batman, by the said chiefs, taking up part of the soil, and delivering the same to the said John Batman in the name of the whole.

In presence of

(Signed)

JAMES GUMM.

ALEXANDER THOMSON.

WM. TODD.

JAGAJAGA.

JAGAJAGA.

JAGAJAGA.

COOLOOLOCK.

BUNGARIE.

YANYAN.

MOOWHIP.

MONMARMALAR." *

A reply from Governor Arthur, of date 3rd July, damped the hopes of Batman and his associates. He did not deem the grant from the aborigines to be of any value, as Great Britain did not consider that the aborigines had any rights in the soil. In confirmation of this view he quoted the Act 4 and 5 William IV., chap. 95, vesting certain powers in commissioners for colonising South Australia, where the rights of the aborigines were not alluded to. He gave the Association a friendly warning not to anticipate that the Crown would recognise or confirm their title to the lands at Port Phillip. As the land had been taken possession of in 1803, and a settlement actually formed there, it was not very likely that the Imperial authorities would pay much attention to the claim put forward by Batman and his associates. But to the Home Government the Association appealed. The members seem to have placed considerable value on the deeds of conveyances, or deeds of feoffment, executed by the natives in favor of Batman; and a case for opinion was transmitted to Mr. Burge, of London, who had formerly been Attorney-General of the colony of Jamaica. This opinion was given on the 16th of January, 1836, and was concurred in by Mr. Pemberton and Mr. (afterwards Sir William) Follett. It was, as might have been expected,

* There was, moreover, another large tract of land conveyed by those great proprietors to Batman; the conveyance is word for word the same, the boundaries alone being different.

adverse to the Association. Mr. Burge lays it down as the principle adopted by European States, that discovery confers on the Government, by whose authority or by whose subjects the discovery was made, ultimate dominion in, and sovereignty over, the soil, even while it continues in possession of the aborigines; and he backed up this opinion by reference to Vattel, b. ii., chap. 18. He shows, by the judgment of the courts of the United States, that the Indian title was held to be subordinate to the absolute ultimate title of the Government, and that purchases made otherwise than by consent of the Government were not valid. Mr. Burge, while holding the opinion that the Crown could legally oust the Association from their possessions, thought that the Crown, on a proper application, would confirm the purchase, quoting the sentiments of Lord Hardwicke, in giving judgment in the case of *Penn v. Lord Baltimore*, that the possessions of persons making these settlements ought to receive the fullest protection.

In accordance with the opinion of Mr. Burge, the Association made application for the confirmation of the treaty through Mr. Mercer, who had gone to England. He wished the Crown to issue a grant of the land in the names of John Batman and Charles Swanston, those gentlemen being trustees for the other members. The great argument adduced was the interest of the natives, for Lord Glenelg was well known to have an especial care for their interests, and to be led by the philanthropists who figured in Exeter Hall. The reply was very unsatisfactory, shifting the responsibility upon the Government of New South Wales. In vain their agent attempted to re-open the question, by offering to pay such a quit-rent as would uphold a local Government. The Imperial authorities had resolved upon acting through the Government of New South Wales, and informed Mr. Mercer that such was their determination, and that it had been instructed to take steps for the proper government of the new settlements.

It will, perhaps, be as well to state in this place the ultimate result. On the intelligence arriving of the resolve, adopted by the Secretary of State, to refer the settlement to the local Government at Sydney, Messrs. Gellibrand and Swanston proceeded to this new field of warfare.* The

* The feeling of the Sydney public on the subject of compensation to the Association may be gathered from the following extract from a Sydney paper of that day, and which is acknowledged to have been written by the Rev. Dr. Lang.—“Port Phillip has been

ultimate result was, that the Association was allowed as compensation a remission order for £7,000; and at the sale held in Sydney in 1838 land to this amount was purchased on behalf of the founder of Port Phillip, and those who had embarked with him in the venture.

About the same time that Mr. Batman made his celebrated voyage in the *Rebecca*, the idea of colonising Port Phillip had entered the mind of another person of equal energy, who now set about the organisation of a company composed of those who had a similar object in view. He now purchased a vessel, and, along with his confederates, made every arrangement for the successful accomplishment of his design.

Mr. John Pascoe Fawcner, the gentleman alluded to, was born in London on the 20th October, 1792, being the son of John and Hannah Fawcner, and accompanied his parents out to Australia in the *Calcutta*, in 1803. It has already been stated that this vessel and the *Ocean* had been sent out to form a settlement at Port Phillip, and Mr. Fawcner first set his foot in this colony on the 19th October of the same year. He sailed from the Port Phillip Heads on the 17th January, 1804, and proceeded to Hobart Town, and saw the founding of that settlement and further progress of the colony of Tasmania. Mr. Fawcner having been bound an apprentice to a sawyer, worked for a considerable period at that laborious trade. He resided for a number of years in and about Hobart Town, and ultimately removed to Launceston in December, 1819, where he continued to reside until he removed to the new settlement of Port Phillip. The *Launceston Advertiser* newspaper was estab-

taken possession of, within the last eighteen months, by a whole company of squatters from Van Diemen's Land, some of whom, it appears, have formed themselves into a company, and pretend to have purchased a large tract of land—for a mere trifle, of course—from the black natives. It is hardly credible that men of understanding and experience in the world could imagine that the British Government would ever be so far lost to all sense of propriety and justice as to sanction any transaction of this kind, more especially when so large a revenue is derivable from the sale of waste land, and when the funds derivable from such sales are to be appropriated towards the encouragement and promotion of emigration * * * and is the British Government, after the thousands and tens of thousands of British money that have been expended in establishing this colony, to forego the opportunity of raising so large a revenue, and doing such a world of good both at home and abroad, merely because a few simple colonists of Van Diemen's Land, with Mr. Gellibrand at their head, after having killed or banished all the aborigines of that island, have come over to enact the solemn farce of purchasing whole earldoms in this island from its poor deluded natives for a haporth o' tay and a farthing's worth o' tobacco?"

lished by Mr. Fawkner in the year 1829 ; but was sold three years afterwards, in 1831, to Mr. Henry Dowling, who conducted it until a recent period, when it was either abandoned or incorporated with some other print. The next speculation which Mr. Fawkner embarked in was the *Cornwall* hotel, which he conducted during the remaining period he continued a citizen of Launceston. About 1835 Mr. Fawkner conceived the idea of founding a settlement at Port Phillip, and organised a party with that view. He had at one time intended to have accompanied Mr. Henty to Portland, but, fortunately for himself, perhaps, he was prevented by some cause from doing so. He purchased the schooner *Enterprise* in April, 1835 ; but, as that vessel was then on a trip to Newcastle, N.S.W., he had to wait a considerable time for her return. Upon her arrival, she was despatched first to visit Western Port, and thoroughly examine its capabilities ; and, in case of failing to discover a place fit for a settlement, to proceed to Port Phillip, in order, as Mr. Fawkner asserts, to found a township on the Yarra. The existence of this river seems to have been known to Mr. Fawkner, in consequence of one of the prisoners having seen it, and informed Governor Collins of the discovery, in 1803. This poor fellow had escaped, and returned some weeks afterwards, literally starving. It is strange, if such really was the case, that Collins did not make some effort to explore the river indicated. Indeed, the conduct of Collins in abandoning Port Phillip is liable to grave suspicion, as he was promised £500 extra if he was under the necessity of removing from Port Phillip and forming a new settlement. Mr. Fawkner, indeed, asserts that there was good soil, fine timber, and plenty of water, where the first settlement stood. He adduces, as proof of the abundance of water, the fact that the *Calcutta*, of 1,200 tons burthen, was watered at the spring under Arthur's Seat ; and the same gentleman has a large chest made from the timber, to prove that it could not be surpassed. The historians of the first settlement—Tuckey, Bent, Knopwood, and several others—agree in testifying that the reasons given were just ; and it seems doubtful if Collins, for the paltry sum of £500, would undertake the trouble, and encounter the danger, of removing the settlement unless actually compelled to do so.

The party who embarked on board the *Enterprise* consisted of Messrs. J. P. Fawkner, William Jackson, George Evans, Robert Hay, Man, and

John Lancy. Mr. Fawcner also took on board James Gilbert, blacksmith, with his wife, Mary ; and two servants, named Charles Wise and Thomas Morgan. The ship went to sea on the 27th July, with a fair wind, which unfortunately changed before many hours, and the vessel was detained within sight of land. Mr. Fawcner was attacked with sea sickness, and under the necessity of returning by George Town to Launceston. The *Enterprise*, however, proceeded on her voyage, and arrived safely at her destination with the other passengers. The *Enterprise* had put into Western Port, as Mr. Fawcner had directed those on board to survey the whole of this inlet, and had given Captain John Lancy written instructions to this effect. The party continued a week there, each day traversing a portion of the shore ; but, finding no fit spot for a settlement, they proceeded with the *Enterprise* to Port Phillip, and, passing up the eastern channel, came to an anchor, in what is now known as Hobson's Bay, on the 20th August. The master of the vessel here found the fresh-water river which had been seen and favorably reported upon by Batman in June, and which was laid down in his chart, and which, he was pretty certain, must disembody itself into this small inlet. On the following morning he sent Messrs. Moor, Lancy, Evans, and W. Jackson, in a whale-boat, to explore. These persons found little difficulty in ascending the Saltwater river, but were much distressed for water, and returned at night completely exhausted. They again started on the following morning, taking care to provide both water and provisions, and ascending the river, reached the basin of the Yarra, where the city of Melbourne now stands. A most enchanting view here greeted their longing eyes. The river was fringed with the mimosa, whose yellow tassels hung over its clear waters ; from its north banks rose green slopes of great beauty and fertility. To the north-west were long rolling plains, with low hills here and there rising abruptly from the surface, their brows lightly covered with casurina and eucalyptus, whose dusky hues contrasted well with the deep green tint of the luxuriant grass which everywhere grew around in this sylvan wilderness ; for it was the season of the year when nature is clothed in her fairest and most attractive drapery. The party unanimously hailed this spot as fit to be the township of the settlement they proposed to found ; and, having made a careful survey of Batman's Hill and the surrounding country, wended their way back to the vessel.

The party, under the direction of Captain Hunter, sounded the channel, placing beacons where they were required, and in ten days managed to take the *Enterprise* up to the basin at Melbourne, where she lay moored to a tree opposite to the spot which now forms the junction of Flinders and William streets, near where the Customs' shed was afterwards erected. The horses and cattle were disembarked, and the party erected huts and fenced in a garden—which, by the way, was on the ground between William and Spencer streets. The first land was ploughed by Mr. Fawkner's servant, George Wise. The *Enterprise* now returned to Launceston, Captain Lancy and Mr. George Evans remaining in charge of the settlement, several of the party returning in her to Tasmania. In October Mr. Fawkner arrived, and removed the tents from Batman's Hill to the rise opposite the Falls, where he erected his own house. The spot on which it stood is to the rear of the Custom-house, near where the Police-office formerly stood. This building was afterwards removed to the opposite side of Market square, to the allotment on which Fawkner's hotel was erected in 1838. He formed a cultivation paddock of eighty acres on the opposite side of the river, where furrows may even yet be perceived in some spots of what was his corn field. He opened a public-house or hotel, and supplied those persons who now began to arrive with such accommodation as they required. He had a garden of considerable extent planted out, even at this early period, with fruit trees and shrubs which he had sent over in the *Enterprise*. He had made considerable exertions to forward the settlement, and expected that the party would receive a small grant of land, but in this he was disappointed. Sir Richard Bourke approved their selection by adopting what is now Melbourne as the site for the Government township, but he refused to grant the moderate demand for sixty acres which was modestly preferred by the six individuals who, at some risk and trouble, had discovered it; nay, His Excellency even refused to lease Mr. Fawkner a ten acre paddock to secure his horses in. In this instance, as in several others, the Executive of that period seem to have refused upon what was no doubt a general principle, as it was impossible to say how far such compliance might become a precedent and afterwards be used against it. It was very arbitrary on the part of His Excellency, nevertheless, towards Mr. Fawkner, particularly as those who came after him were enabled to occupy large tracts

at a nominal rent under the provisions of what is termed the Squatting Act. The new settlement was visited by Mr. John Hilder Wedge about the time of the return of the *Enterprise* on her first trip. This gentleman was a surveyor in the employment of the Government of Van Diemen's Land, who had been in the confidence of Batman, and was a member of the Association; he sailed from George Town on the 18th July, and had a speedy run to Port Phillip, where he landed at the settlement of Mr. Batman, on Indented Head. In surveying the country purchased by Batman from the natives, Wedge stumbled upon the settlement on the Yarra. He was not a little jealous of the new arrivals, whom he appeared to regard as intruders, and, in the name of the Association, he warned them off.

The superior advantages of the site selected by the party of Fawcner induced Batman's party to remove their establishment to the banks of the Yarra from Indented Head. They fixed their settlement to the west of Fawcner's house, which they afterwards removed to the hill,* on the slope of which Batman erected a substantial wooden house. Previous to the removal of the party left by Batman from the settlement at Indented Head, their abode was visited by the celebrated Buckley, who had come out a prisoner in the *Calcutta*, and escaped from the camp of Governor Collins in 1803. The story of this individual is romantic enough; and, if the accounts published in Van Diemen's Land regarding him were authentic, he would be a most interesting character. Truth compels us to say that there was nothing whatever remarkable about him; he was quite as ignorant, and of much feebler intellect than the aborigines who had so long formed his associates. When he arrived at Batman's settlement on Indented Head he had quite forgotten his native tongue, and was unable to reply to the various questions which were put to him. Being anxious to obtain information regarding the country, the men left by Batman bestowed upon him considerable attention; they showed him bread, which he at once recognised, and after some trouble he managed to pronounce its name. He was soon able to communicate to his countrymen his history and adventures. When, in company with his two companions, he had escaped from the first settlement under Governor

* Mr. Fawcner states that, in the first instance, Batman's party fixed themselves close to his house, and did not remove as far west as the hill until near Christmas.

Collins, he underwent severe privations, and it never has been clearly ascertained what became of those who had accompanied him in his flight. A strange mystery hangs over their fate, and Buckley did not exhibit any disposition to clear it away; it seems more than probable, however, that they died of exhaustion from long and tedious wandering in the bush. Buckley appears to have been chiefly indebted for his preservation amongst the aborigines to a superstition current amongst all the Australian blacks, that their deceased friends return to the earth as white men; the tribe who first came upon Buckley, imagining he was one of their number, about the same age, and of the same remarkable stature (for Buckley stood about six feet four-and-a-half inches), who had been transmuted in accordance with their superstitious ideas, received him as a lost friend. He had lived with the same tribe during the long interval of time which elapsed between the abandonment of the colony by Collins, and the settlement of Batman on Indented Head, about thirty-two years—from 1803 to 1835. The character of Buckley has been variously represented; but there can be no doubt that he was a man destitute of energy and intellect. He was useful to Batman and his friends, and, in the visit which Sir Richard Bourke paid to Melbourne, Buckley, who had obtained a free pardon from Governor Arthur, accompanied him about the country as guide and interpreter, and was promised a salary of £50 per annum. Buckley, however, left the settlement for Hobart Town, where he resided until his death, in February, 1856.

During the first settlement of Melbourne Batman was in Van Diemen's Land, endeavoring to obtain a ratification of his grant from the aborigines of Port Phillip. It appears that Governor Arthur was under the impression that the newly-settled territory would be attached to New South Wales, to which it naturally belonged, for he had informed Mr. Batman, in reply to his first application, that the purchase of land from the natives might be confirmed, but that he did not consider Port Phillip was within his jurisdiction. There can be no doubt, however, that he took a considerable interest in the new settlement, and forwarded several despatches to the Secretary of State, in which he indirectly hinted at the propriety of attaching it to the Van Diemen's Land Government. The matter was quickly decided by Sir Richard Bourke, who immediately issued the following:—

"PROCLAMATION.

By his Excellency Major-General Sir Richard Bourke, K.C.B., commanding His Majesty's Forces, Captain-General and Governor-in-Chief of the territory of New South Wales and its dependencies, and Vice-Admiral of the same.

"Whereas it hath been represented to me that divers of His Majesty's subjects have taken possession of lands of the Crown within the limits of the colony, under the pretence of a treaty, bargain, or contract, for the purchase thereof, with the aboriginal natives : now, therefore, I, the Governor, in virtue and in exercise of the power and authority vested in me, do hereby proclaim and notify to all His Majesty's subjects, and others whom it may concern, that every such treaty, bargain, and contract with the aboriginal natives, as aforesaid, for the possession, title, or claim to any lands lying and being within the limits of the Government of the colony of New South Wales, as the same are laid down and defined by His Majesty's commission ; that is to say, from the Northern Cape, or extremity of the coast called Cape York, in the latitude of 10 degrees, 37 minutes south, to the southern extremity of the said territory of New South Wales, or Wilson's Promontory, in the latitude of 39 degrees $\frac{1}{2}$ minute south, and embracing all the country into the westward as far as the 129th degree of east longitude, reckoning from the meridian of Greenwich, including all the islands adjacent to the Pacific Ocean within the latitude aforesaid, and including also Norfolk Island ; is void, as against the rights of the Crown ; and that all persons who shall be found in possession of any such lands as aforesaid, without the license or authority of His Majesty's Government for such purpose first had and obtained, will be considered as trespassers, and liable to be dealt with in like manner as other intruders on the vacant lands of the Crown within the said colony."

This Proclamation is dated from Government House, Sydney, 26th August, 1835.

Batman returned to Port Phillip in the following April, and occupied the hill that still bears his name. He traded with Van Diemen's Land, and kept a store, where he supplied the settlers—who now began to increase—with such articles as they required. As might have been expected, there was no little jealousy between him and Fawkner, each

looking upon the other an intruder. Batman considered he owned the soil by his purchase from the natives, and Fawknor's party thought their claim was quite as good as any the Association could set up, inasmuch as they had been the first to settle on the Yarra; and the validity of the purchase from the aborigines already began to be questioned.

CHAPTER IV.

Sir Richard Bourke; his popularity.—The Settlement at Port Phillip progresses.—Aptitude of the British nation for Colonization.—The Aborigines.—The Settlement at Port Phillip recognised by the Sydney Government.—Visit of Sir Richard Bourke.—Government Land Sales.—Fate of Gellibrand and Hesse.—Climate of Port Phillip.—Sickness in Melbourne.

PORT PHILLIP formed a portion of New South Wales, being within the limits of that colony, as laid down by royal commission. At this period Sir Richard Bourke administered the government at Sydney. He was a gentleman of excellent abilities, who had acquired the requisite experience for the proper exercise of such authority as was now vested in him by a long training in the public service of his country. This Governor was born at Thornville, Limerick, in 1777; and in 1798, having obtained an appointment in the army, saw service both in the Peninsula and Holland. He acted for some time as Governor at the Cape of Good Hope, and passed the ordinance for the emancipation of the Hottentots. In 1831 he was appointed to New South Wales, and arrived at Sydney on the 2nd December of that year. It may be safely affirmed that he was the most popular Governor who has ever exercised the vice-regal authority in that colony. Inferior in ability to Sir George Gipps, he far excelled him in equanimity of temper and a constant desire to do justice to all sects and classes. Even at this day Sir Richard Bourke is remembered in Sydney with gratitude and almost parental affection. This is partly to be attributed to his extreme liberality in religion and the total absence of anything like bigotry during his tenure of office. He placed all religious sects upon an equality, distributing such aid as

the State could afford fairly amongst them, according to the number of their adherents. He, moreover, declined to continue a not very honorable connexion which had, up to his time, subsisted between the government and a portion of the Sydney press; the patronage of the former being bestowed in lieu of the slavish support of the editors. Sir Richard Bourke refused any support, and gave all government work to the lowest tenderer. He declined to mix in any local squabble or colonial quarrel; and, without a party, was contented with the general respect of the colonists. At the time that he assumed the authority the colony was prostrated by severe droughts, scarcity, and financial derangement. It rallied in a brief period, and, during his government, attained a condition of unparalleled prosperity. These various accidents, combined with good sense and experience, must account for Sir Richard Bourke's popularity, rather than eminent ability on his part; for, after his return to Britain, he did not again emerge into notice. He died at his native city in 1855. So little interest did this event create in Victoria, when it occurred, that not one of the newspapers referred to it, and public attention was called to the decease of the first Governor who exercised authority in Port Phillip by the Town-Clerk of Melbourne,* through the columns of one of the local newspapers.

For a considerable period His Excellency seems to have taken no notice of the new settlement, beyond the fulmination of the proclamation which has been already quoted; but, hearing that persons were still proceeding thither, he directed Mr. Steward, a police magistrate, to proceed to Port Phillip in the revenue cutter, *Prince George*, in order to report on the place and the condition of the people. This gentleman was the first who had legitimate magisterial authority in Port Phillip; but the people respected several colonists who had been in the commission of the peace in Tasmania, and obeyed them as implicitly as if they had been in reality magistrates of the territory. At this time, while people and stock were arriving almost daily from Van Diemen's Land, the population of the new settlement began to receive very important accessions from New South Wales. Major Mitchell having spread

* Mr. William Kerr was at the time Town-Clerk of Melbourne.

a favorable report of the country, many enterprising stock-owners took the road, and, pouring across the Murrumbidge and Murray rivers, occupied the fine country on the Goulbourn, Ovens, Campaspee, and Loddon rivers. A fleet of small vessels were busy plying between Williamstown and Van Diemen's Land,* engaged in transporting stock to the western districts of Port Phillip; so that, by the month of August, 1836, it was computed that 38,000 sheep had been imported from Launceston. The new settlement advanced in population and wealth, for our countrymen cannot be equalled at founding colonies. "The domestic plodding character of the genuine Englishman," says a late *Economist*,† "admirably suits him to take root in a new soil. Germans bear transportation well, but will not crystallise into distinct national groups; they emigrate, but do not colonise. Frenchmen cling together with more tenacity, perhaps, than other people, but seem to have no faculty of taking fresh root at a distance from home; their life is too national—too dependant on the great central interest—too little absorbed in domestic and local pursuits—not limited enough—not tranquil enough—not self-dependent enough, to accommodate itself easily to the strange climate and isolated existence of colonial life." Few will deny that the Anglo-Saxon excel any race the world has seen as colonizers. This is attested by the colonial empire of England at the present day, which, without the former colonies which now form the United States of America, is the most magnificent that the world has seen. The energy with which the settlement at Port Phillip was formed and extended demonstrates the genius of the British nation for such enterprises. The only nation that could have rivalled Britain in aptitude for colonization is the Dutch, but a variety of circumstances in combination have reduced that power to so low an ebb that it cannot undertake any important enterprise.

On the 21st October, 1835, the *Norval*, Coltish, master, cleared out at Launceston for this place, and brought over Messrs. B. Cotter, Oakden, D. Ferguson, B. F. Ferguson, and several other persons.

* These vessels were *The Van Sittard, Enterprise, Chili, Champion, Geni, Adelaide*, and *Henry*.

† 9th May, 1857.

Mr. B. Cotter was long known as a medical practitioner, and afterwards removed to South Australia. Numbers of persons now began to leave Van Diemen's Land, for the purpose of settling at Port Phillip; and, as a consequence, property was much reduced in the former colony, in many instances to less than half its previous value.

At this time the aborigines were rather troublesome, and few of the early settlers escaped from their predatory incursions. They rarely, it is true, attacked the home stations of the settlers, but shepherds were cut off in every part of the settlement, and numbers of sheep were stolen. In some districts large bells were attached to trees, in order that the alarm might be sounded in event of a predetermined attack; and, a few years ago, several of the posts on which these bells were placed were pointed out to any person curious in the matter in the neighborhood of Geelong. The following conflict between an overland party and the natives, which we have condensed from the *Sydney Herald*, was, perhaps, the most serious that took place:—It appears that, on the morning of the 11th ult., a party of men in charge of Mr. Faithful's sheep, on the route to Port Phillip, were preparing to proceed from the winding swamp, about thirty miles beyond the Ovens river, on their way to the Goulburn, where it was understood good stations were to be had; and while the bullocks were being yoked, the men with the drays heard the shouts of the shepherds calling out for help. These men, who were at a short distance from the encampment, collecting the sheep, were presently seen running with great speed towards the dray, pursued by a body of blacks throwing spears after them. Their companions near the encampment, three of whom were armed with guns, ran to their assistance, and endeavored to drive off the blacks, who by that time were within 300 or 400 yards of the camp. The combat became general: spears flew in all directions, and several shots were fired without effect, owing to the caution exercised by the blacks of interposing the trees between themselves and the defensive party, but still gradually closing on the latter. It was now seen that further resistance would be of no avail, and that in flight lay the only chance of safety, as the blacks continued to increase in numbers as they advanced. There were fifteen in all of Mr. Faith-

ful's servants, of whom seven were killed, and one so severely wounded that recovery was hopeless.

These blacks appeared so friendly that none of the party, except a person named Bentley, had dreamed of hostilities. His suspicions were aroused by his seeing no women amongst them, and by finding a bundle of spears while going the round the night previous—a sure sign that the blacks were not far off, and that they were anything but pacific in their dispositions. Had the aborigines possessed the same vigor as the New Zealanders, they could have prevented the settlement of Port Phillip. The flocks of the settlers were exposed night and day to their depredations, and it is really surprising that more serious losses were not sustained. In early days more danger was apprehended from wild dogs than blacks. At the first public meeting of colonists in Port Phillip, it was agreed that a reward of five pounds per head should be given for every wild dog that was killed.

At first the settlement had neither magistrate nor policeman. As has been already mentioned, there were, however, some gentlemen who had been in the commission of the peace in Van Diemen's Land. Amongst their number was Mr. James Simpson, a gentleman who bore the highest character for integrity, and who, in the absence of any lawful authority, was prevailed upon to act as arbitrator. A memorial was at the same time drawn up, and forwarded to the Governor, praying His Excellency to send a police magistrate, and afford them the necessary protection. The necessity of recognising the settlement, and providing for it some kind of local government, seems at length to have become apparent at Sydney, and two officials were sent down to exercise certain powers on behalf of the Sydney Government: the first as head magistrate, with a small military and police force under his direction; the second as head of the customs department.

Captain Lonsdale came out to Sydney an officer in the 4th regiment, and entered the civil service of the colony. He had held an appointment in New South Wales as police magistrate, and he was well fitted to represent the government in the new settlement. He is allowed to have been actuated by the purest motives, and was, notwithstanding his strict attachment to Mr. LaTrobe, the Superintendent of Port Phillip,

always a favorite with the people. Mr. Robert Sanders Webb, the other official, had been clerk in the Sydney custom-house, and rose ultimately to be Collector of Customs in Melbourne. He was afterwards dismissed from this situation by Mr. LaTrobe, and, in the opinion of a number of colonists, most unjustly; he appealed to the heads of the department in England, and was appointed as chief clerk in the Sydney custom-house, which situation he held until his death. He was a gentleman devoid of any shining ability, but quiet and amiable in his disposition, and deserved to have been better treated by the Government. The first Chief Constable of the Settlement was Mr. Joseph William Hooson, a person well known to all the early colonists. He had been a soldier, and received a wound in the head, which appeared to have deranged his intellect. He obtained some property in Melbourne, and left the police; he used to talk in the streets in the most incoherent manner, to the great amusement of the children of the city. He lost his property, and was appointed street-keeper by the corporation; he died in Melbourne about the year 1849. At the time that Captain Lonsdale was nominated Acting Superintendent, during Mr. LaTrobe's absence in Van Diemen's Land, Hooson, who had accompanied the Captain to the settlement, and considered himself indispensable to him, intruded into the Treasury office, and wished to act as grand vizier to the new head of the Government. Captain Lonsdale had to send for the police, and was under the necessity of giving him into custody. An allotment of land in Collins street belonged originally to poor old Hooson; the present value of that property may be conceived when it is stated that the portion of it on which the auction room is erected sold, not very long ago, to the Hon. W. J. T. Clarke, Esq., for the sum of £24,000.

A party of soldiers under Lieutenant King was sent to the new settlement, with three surveyors, Messrs. Russell, Darke, and Darcy. The first gentleman was long known and much respected by the colonists, and returned to England in 1853; Mr. Darke was unfortunately murdered by the natives of South Australia, about seven years afterwards.* Mr. Darcy is still understood to be alive, and residing in some part of Australia.

* Mr. Darke, the surveyor, late of Port Phillip, was speared by the natives at Port Lincoln. He lingered two days, and died in great pain.—*Port Phillip Gazette*, 23rd November, 1844.

The recognition of the settlement at Port Phillip was forced upon the Government, contrary to the desire of the imperial authorities. The theory of Wakefield, that population in newly-settled territories must be concentrated, was then popular, the great importance of the pastoral resources of the Australian colonies not having made itself apparent. Mr. Wakefield claims to have been the originator of the only valuable part of his system, viz., of selling waste lands, and appropriating the proceeds to immigration. But, in fact, this is not his idea, as the proposition came originally from John Galt, the novelist, who had resided a considerable time in North America, where he wrote one of his best tales, "Laurie Todd." Lord Glenelg, the Secretary of State for the Colonies, was strongly impregnated with Wakefield's theory of concentration, and doubted the propriety of allowing persons to distribute themselves over the territory. No attempt, however, beyond the proclamation already referred to, was made to stop the tide of emigration now setting in from Van Diemen's Land and New South Wales; and, as it would have been quite as much trouble to set up a government on the spot to prevent people coming, as to protect them when they arrived, Governor Bourke, fortunately for his own fame, selected the latter course, delicately hinting to Lord Glenelg that the theory of concentration would not be found suitable for Australia, where the pastoral resources of the country ought not to be neglected. So fast did the new settlement advance that Sir Richard Bourke embarked on board the *Rattlesnake*, and arrived in its bay in April, 1837. Port Phillip had, in the short space that it had been in existence, made extraordinary progress, and, when His Excellency landed, it boasted a population of nearly 500. The stock amounted to 140,000 sheep, 2,500 head of cattle, and 150 horses. The plans of three towns had been laid out by the surveyors, and were now approved of by His Excellency, who named them—Williamstown, Melbourne, and Geelong. The first bears the name of the reigning sovereign, the second, of Lord Melbourne, the prime minister of the mother country, and the latter is the native name retained. Captain Hobson, of the *Rattlesnake*, who had surveyed the inlet which bears his name, on his previous voyage, and was in attendance upon His Excellency, had the honor of having it named after him; he also surveyed the Bay of Geelong, and, soon afterward, issued a chart

of Port Phillip. The visit of so potential an official as the Governor of the colony was an event of great importance to the early settlers, who waited upon him and were graciously received. An address was presented, and a suitable reply returned; and His Excellency, having taken a trip into the interior, under the guidance of Buckley, and having viewed the country, re-embarked, and returned to Sydney. In opening the Legislative Council, 7th June, His Excellency said:—"I received His Majesty's gracious permission to open up for location the country adjacent to Port Phillip and Twofold Bay."

The persons who had arrived at the new settlement at Port Phillip had a real pecuniary favor conferred upon them by his Excellency Sir R. Bourke, who, "in consideration of the number of persons occupying habitations in and near the territory of Melbourne, waiting for an opportunity of purchasing allotments, was pleased to direct that a certain portion of the allotments which had recently been laid out by order of his Excellency should be disposed of by public auction on the spot."

On the 1st June, 1837, the first Government land sale was held, Robert Hoddle, Esq., the first Surveyor-General of the colony, acting as Government auctioneer. The land offered was mostly situated in Melbourne, and brought moderate prices, the half-acre allotments selling at from £18 to £78. Even this was considered high at the time. The residents in Melbourne, however, were well aware that, if the land were offered at Sydney, they would not only be compelled to undertake a serious journey, but to compete with the capital and enterprise which at that period was abundant in the Australian metropolis, and would have but a poor chance of obtaining lots; and the kind Governor once more granted their request that more town lots should be put up on the spot; and, in accordance with notice duly given in the *Sydney Government Gazette*, a second sale took place at Melbourne on the 1st November, 1837.

The large sales which took place in Sydney, of Melbourne and suburban allotments, about a year and three months afterwards, showed the residents in the new settlement the extent of the obligation which Sir Richard Bourke had conferred upon them, the land

selling at four times the price in Sydney that it had fetched in Melbourne.*

* The following is the land sold in the original town of Melbourne; the blocks are given in regular order, with the purchasers of the various sub-divisions.

TOWN OF MELBOURNE.

Block I. Bounded on the west by Spencer street, on the south by Flinders street, on the east by King street, and on the north by Collins street. Lots—1, A. B. Spark; 2, P. L. Campbell; 3, A. Walker; 4, B. Baxter; 5, J. Rose; 6, J. Rose; 7, F. Manton; 8, W. Bowman; 9, S. A. Donaldson; 10, J. D. L. Campbell; 11, C. W. Roemer; 12, H. F. Gisborne; 13, H. F. Gisborne; 14, B. Heape; 15, S. J. Brown; 16, A. Walker; 17, W. D. Mercer; 18, W. A. Brodrib; 19, A. Willis.

Block II. Bounded on the west by King street, on the south by Flinders street, on the east by William street, on the north by Collins street. Lots—1, 2, J. P. Fawcner; 3, J. Moss; 4, A. Willis; 5, J. Sutherland; 6, L. Mac Allaster; 7, M. Conolly; 8, J. Batman; 9, W. Harper; 10, J. F. Strachan; 11, J. Batman; 12, 13, J. Smith; 14, D. Fisher; 15, S. Praig; 16, 17, Wilson and Eyre; 18, J. E. Wedge; 19, T. Brown; 20, J. G. Wedge.

Block III. Bounded on the west by William street, on the south by Flinders street, on the east by Queen street, and on the north by Collins street. Lots—1, 2, Customs; 3, 4, Western market; 5, 6, F. R. Darey; 7, 8, 9, R. S. Webb; 10, J. Sutherland; 11, J. Hodgson; 12, W. Powell; 13, W. F. A. Rucker; 14, J. P. Fawcner.

Block IV. Bounded on the west by Queen street, on the south by Flinders street, on the east by Elizabeth street, and on the north by Collins street. Lots—1, G. Cooper; 2, M. Carr; 3, I. Mills; 4, J. Grove; 5, J. Field; 6, 7, L. Mac Allaster; 8, A. Thompson; 9, L. Mac Allaster; 10, 11, G. Coulstock; 12, Joseph Hooson; 13, T. Hood; 14, J. Napier; 15, W. Sharpe; 16, M. Pendar; 17, J. Batman; 18, A. Willis and Co; 19, Steward Ryre; 20, M. Carr.

Block V. Bounded on the west by Elizabeth street, on the south by Flinders street, on the east by Swanston street, and on the north by Collins street. Lots—1, D. M'Arthur; 2, J. Hill; 3, A. Langhorne; 4, J. Thompson; 5, S. J. Brown; 6, W. Roadnight; 7, J. Hodgson; 8, J. Batman; 9, J. Winter; 10, 11, J. Batman; 12, 13, J. Mc Null; 14, M. Carr; 15, J. Gunn; 16, J. Hodgson; 17, E. Westby; 18, J. Mallison; 19, J. Brown; 20, A. Sutherland.

Block VI. Bounded on the west by Swanston street, on the south by Flinders street, on the east by Russell street, and on the north by Collins street. Lots—1, 2, St. Paul's Church; 3, J. W. Cowell; 5, D. Hoyle; 6, C. H. Ebdon; 7, 8, W. Rutledge; 9, H. Smythe; 10, Thos. Black; 11, 12, R. Bourne; 13, J. Forster; 14, T. Jeffry; 15, T. Walker; 16, C. Nicholson; 17, J. Napier; 18, J. Black; 19, J. Boush; 20, St. Paul's School.

Block VII. Bounded on the west by Russell street, on the south by Flinders street, on the east by Stephen street, and on the north by Collins street. Lots—1, J. Allison; 2, J. Gore; 3, A. Hordern; 4, J. Wills; 5, 7, G. Sandeman; 6, P. Oakden; 8, G. Porter; 9, J. Gilchrist; 10, 11, 12, G. W. Cole; 13, J. T. E. Flint; 14, P. Oakden; 15, J. Walker; 16, A. Walker; 17, G. Sandeman; 18, P. Oakden; 19, 20, J. Walker.

An unfortunate event occurred which deprived the new settlement of the most active member of the Association, and by far the most accomplished and enterprising colonist that it could boast. Mr. Joseph Tice Gallibrand will be long remembered, not merely as one of the

Block VIII. Bounded on the west by Stephen street, on the south by Flinders street, on the east by Spring street, and on the north by Collins street. Lots—1, P. L. Campbell; 2, 3, 4, G. Porter; 5, 6, 7, A. B. Sparke; 8, B. and E. Moses; 9, J. B. Montefiore; 10, 11, P. Campbell; 12, G. Howitt; 13, W. D. Mercer; 14, T. Strode; 15, A. Andrews; 16, A. Thompson; 17, 18, G. Porter; 19, D. Stevenson; 20, P. L. Campbell.

Block IX. Bounded on the west by Stephen street, on the south by Collins street, on the east by Spring street, and on the north by Bourke street. Lots—1, G. Porter; 2, W. H. Yaldwine; 3, F. Manton; 4, A. Thompson; 5, W. H. Wigmore; 6, W. Coates; 7, C. Williams; 8, B. and G. Moses; 9, A. MacKillop; 10, 11, P. L. Campbell; 12, E. J. Brewster; 13, A. M'Lachlan; 14, Geo. James; 15, S. J. Brown; 16, A. S. Smart; 17, R. Russell; 18, 19, P. L. Campbell; 20, Geo. Porter.

Block X. Bounded on the west by Russell street, on the south by Collins street, on the east by Stephen street, and on the north by Bourke street. Lots—1, 2, 3, Independent Church, Manse, and School; 4, D. Wallace; 5, T. Greener; 6, E. Westby; 7, J. Watson; 8, T. J. E. Hunt; 9, W. Smith; 10, 11, 12, 13, 14, E. Market; 15, S. J. Brown; 16, 17, C. Williams; 18, 19, A. Hordern; 20, Independent Church.

Block XI. Bounded on the west by Swanston street, on the south by Collins street, on the east by Russell street, and on the north by Bourke street. Lots—1, John Hall; 2, 3, J. H. Osbourne; 4, J. Gardner; 5, Baptist Church; 6, Presbyterian Church; 7, Presbyterian Manse; 8, 9, Presbyterian Church; 10, Betts and Co.; 11, 12, S. A. Donaldson; 13, T. Walker; 14, J. Mac Namara; 15, Betts and Co.; 16, T. Wills; 17, T. Jeffry; 18, 19, W. Bowman; 20, Police Office.

Block XII. Bounded on the west by Elizabeth street, on the south by Collins street, on the east by Swanston street; and on the north by Bourke street. Lots—1, Jas. Ross; 2, H. Batman; 3, G. Marshall; 4, W. Synott; 5, G. Scarborough; 6, 7, 8, 9, H. Howey; 10, C. Swanston; 11, B. Cotter; 12, H. Allan; 13, J. Hill; 14, J. McDonald; 15, J. Walker; 16, J. P. Fawcner; 17, J. Moore; 18, 19, J. Roach; 20, J. Gardner.

Block XIII. Bounded on the west by Queen street, on the south by Collins street, on the east by Elizabeth street, and on the north by Bourke street. Lots—1, E. W. Umphelby; 2, T. Coombs; 3, J. Wood; 4, H. Mac Lean; 5, J. J. Peers; 6, R. Her-ring; 7, 8, T. Brown; 9, J. Highett; 10, 11, R. Hoddle; 12, J. Hughes; 13, H. Cooper; 14, W. Evans; 15, D. Guilan; 16, 17, J. Smith; 18, 19, T. Brown; 20, T. H. Vaughan.

Block XIV. Bounded on the west by William street, on the south by Collins street, on the east by Queen street, and on the north by Bourke street. Lots—1, Wilson and Eyre; 2, G. Smith; 3, G. Robinson; 4, G. Lilly; 5, 6, 7, C. H. Edden; 8, Wesleyan Chapel; 9, Jas. Donnell; 10, T. D. Weatherby; 11, Geo. Mercer; 12, H. Smith; 13, W. Hutton; 14, J. P. Fawcner; 15, 16, 17, T. Walker; 18, C. Wedge; 19, J. F. Strachan; 20, G. Reid.

Block XV. Bounded west by King street, south by Collins street, east by William

early friends of Victoria, but as one of the ablest lawyers who has appeared on the colonial arena. He held the office of Attorney-General in Van Diemen's Land for a considerable period, but was dismissed by Governor Arthur for what he termed unprofessional conduct. This

street, and north by Bourke street. Lots—1, Alex. Orr; 2, S. Campbell; 3, R. Browne; 4, A. B. Sparke; 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, St. James's Episcopal Reserve; 15, J. Walker; 16, C. Nicholson; 17, Betts and Pantou; 18, 19, A. Fotheringham; 20, P. W. Flower.

Block XVI. Reserved for public buildings.

Block XVII. Bounded west by Spencer street, south by Bourke street, east by King street, and north by Lonsdale street. Lots—1, 2, R. Hoddle; 3, J. Rose; 4, A. Robertson; 5, E. Lockett; 6, R. Russell; 7, C. Falconer; 8, G. D. Mercer; 9, H. Dowling; 10, P. L. Campbell; 11, J. W. Stephens; 12, 13, M. Pender; 14, C. Garrard; 15, 16, 17, 18, 19, Railway Reserve; 20, S. J. Brown.

Block XVIII. Bounded west by King street, south by Bourke street, east by William street, and north by Lonsdale street. Lots—1, C. Nicholson; 2, 3, Betts and Pantou; 4, W. Piper; 5, 6, J. M'Intyre; 7, Betts and Pantou; 8, 9, John Brown; 10, 11, J. H. Phelps; 12, 13, P. Oakden; 14, 15, Betts and Co.; 16, G. J. Garrard; 17, W. H. Kerr; 18, J. White; 19, A. Davidson; 20, George Cooper.

Block XIX. Bounded west by William street, south by Bourke street, east by Queen street, and north by Lonsdale street. Lots—1, 2, Charles Hutton; 3, 4, E. Dubois; 5, S. J. Brown; 6, Jews' Synagogue; 7, — Elmes; 8, J. Learmonth; 9, J. Simpson; 10, Charles Scott; 11, Charles Howard; 12, H. Elmes; 13, H. Pollock; 14, P. Cussen; 15, 16, 17, 18, 19, Government Offices; 20, Charles Hutton.

Block XX. Bounded on the west by Queen street, on the south by Bourke street, on the east by Elizabeth street, and on the north by Lonsdale street. Lots—1, 2, J. Brown; 3, J. M'Nall; 4, J. Douglas; 5, J. Cronin; 6, G. Lilly; 7, I. Solomon; 8, J. Mills; 9, George Hitchcock; 10, J. D. Weatherby; 11, Wilson Shaw; 12, R. Robson; 13, J. Hyland; 14, M. Langhorn; 15, A. Langhorn; 16, G. Tobin; 17, Joseph Sutherland; 18, T. Roadnight; 19, Mary Hill; 20, J. Aberlin.

Block XXI. Bounded on the west by Elizabeth street, on the south by Bourke street, on the east by Swanston street, and on the north by Lonsdale street. Lots—1, Post Office; 2, Jane Stephens; 3, T. Wall; 4, 5, J. Batman; 6, P. Murphy; 7, J. Holmer; 8, C. Swanston; 9, C. Driver; 10, 11, 12, 13, J. Clow; 14, E. J. Newton; 15, A. Haig; 16, F. Nodin; 17, M. Carr; 18, C. Wentworth; 19, C. Driver; 20, Post Office.

Block XXII. Bounded on the west by Swanston street, on the south by Bourke street, on the east by Russell street, and on the north by Lonsdale street. Lots—1, C. Grace; 2, P. Cussen; 3, R. Campbell; 4, P. Oakden; 5, L. W. Gilles; 6, J. Purves; 7, George Chisholm; 8, J. H. Phelps; 9, P. W. Walsh; 10, J. Patterson; 11, W. H. Kerr; 12, T. H. Vaughan; 13, Benjamin Baxter; 14, W. H. Kerr; 15, S. Stephen; 16, Robert Campbell; 17, 18, Thomas Walker; 19, J. Stevenson; 20, Hughes and Hoskins.

Block XXIII. Bounded on the west by Russell street, on the south by Bourke street, on the east by Stephen street, and on the north by Lonsdale street. Lots—1, 2, 3, 4, Archibald Mossman; 5, D. S. Campbell; 6, A. F. Mollison; 7, Henry

was stated to have taken place in the case of *Laurie v. Griffiths*, in which Mr. Gellibrand had drawn the pleas for the plaintiff and afterwards acted against him. A complaint was formally made by Mr. Alfred Stephen to the Court. The Chief Justice refused to act in the matter, and left it in the hands of the Governor, who appointed a Commission of inquiry. Mr. Gellibrand lost his office; but it is almost universally admitted that the whole proceeding was vexatious and malicious, and that little, if any, blame could be attached to his professional character, and he continued for a number of years afterwards at the Hobart Town bar. He received a large number of briefs, and no doubt accumulated a considerable fortune. He was the heart and soul of the Port Phillip Association, but did not come over until the year 1836. He was accompanied by a friend, also a member of the bar, named Hesse. The two took horse at Geelong, and proceeded to visit a station on the River Leigh. They were accompanied by a shepherd, who was intended for their guide. Unfortunately they lost their way; the shepherd insisted that they were going in the right direction, and Mr. Gellibrand was as positive that they were wrong. Such disputes frequently occur in bush travelling. The shepherd took

Dowling; 8, Robert Deane; 9, 10, George Porter; 11, J. Sproat; 12, 13, F. A. Powlett; 14, J. Docker; 15, M. Pender; 16, J. M. Chisholm; 17, J. Enscoe; 18, W. F. A. Rucker; 19, 20, J. Enscoe.

Block XXIV.—Bounded on the west by Stephen street, on the south by Bourke street, on the east by Spring street, and on the north by Lonsdale street. Lots—1, G. Porter; 2, S. J. Brown; 3, 4, G. B. Smythe; 5, G. F. Gardiner; 6, A. D. Volume; 7, D. Dunbar; 8, W. S. M'Leary; 9, 10, 11, D. Dunbar; 12, J. Malcolm; 13, A. B. Sparke; 14, J. B. Montefiore; 15, J. O. Denny; 16, J. Williamson; 17, G. Allen; 18, W. S. M'Leary; 19, W. Gibb; 20, B. Heape.

Block XXXI. Bounded on the west by King street, on the south by Lonsdale street, on the east by William street, and on the north by La Trobe street. Lots—1, T. F. Strachan; 2, A. Walker; 3, S. A. Donaldson; 4, F. Fyans; 5, J. W. Stevens; 6, 7, W. F. A. Rucker; 8, Woolley and Bacchus; 9, S. J. Brown; 10, 11, J. W. Stevens; 12, A. M'Killop; 13, G. Sherwin; 14, D. Kelch; 15, C. Rawson; 16, B. Heape; 17, 18, S. J. Brown; 19, F. A. Powlett; 20, H. W. Mason.

Block XXXII. Bounded on the west by Spencer street, on the south by Lonsdale street, on the east by King street, and on the north by La Trobe street. Lots—1, T. Handon; 2, Betts, Baxter, Burns, and Allerton; 3, 4, H. Jameson; 5, R. Robinson; 6, A. B. Sparke; 7, J. M. Chisholm; 8, H. Whyte; 9, J. M. Chisholm; 10, J. Simpson; 11, W. Lonsdale; 12, John Rankin; 13, H. Glass; 14, T. B. Payne; 15, 16, 17, 18, 19, Reserve; 20, Henry Jeffries.

The six Blocks, XXV., XXVI., XXVII., XXVIII., XXIX., and XXX., in the original site of Melbourne, were not put up until 1845, 1846, and 1847, and therefore do not exactly belong to this period of the history of Victoria.

the other direction, and left the two gentlemen to pursue the course they had selected. They were not again heard of, and were supposed, by most persons, to have irretrievably lost their way and died from starvation. A party was sent in quest of them, and their track was followed as far as the Aboriginal Mission Station at Buntingdale, but near this spot all traces of these unfortunate wanderers disappeared, and the party retraced their steps without having accomplished the object of their search. Years rolled on, and no trace was found of Mr. Gellibrand and his companion, much to the surprise and regret of the colonists, who deeply deplored their untoward fate. At last, however, Mr. Allan, a settler on the Hopkins, was induced, by information received from the natives, to undertake a journey to search for their remains.

The Cape Otway blacks showed him the spot where Mr. Gellibrand was said to have met his fate, and a skull was picked up, evidently that of a white person, and which has been recognised as that of the much lamented gentleman. It is probable that the travellers became entangled amongst the deep jungles and impenetrable forests of Cape Otway, and, being unable to extricate themselves, Mr. Heese had sank from fatigue and hunger, and Mr. Gellibrand had pushed forward and reached a native encampment, where he had been barbarously murdered. This is perhaps the most melancholy incident connected with the early colonization of Port Phillip.

The name of Mr Gellibrand is firmly interwoven with the early efforts of the Van Diemen's Land settlers to colonize Port Phillip, and it has been bestowed upon two remarkable mounts, as well as upon the point at the entrance of Hobson's Bay. The event was a great calamity to the settlement then struggling into existence, as Mr. Gellibrand was just the person who was required to fight for the interests of the people. His position in Van Diemen's Land amongst the free settlers—his commanding ability—his correct acquaintance with constitutional law—and his enthusiastic devotion to the cause—all pointed him out as the proper person to lead the people onward towards free institutions, as well as to assist them in developing the resources of the colony.

The climate of Victoria is acknowledged to be the most salubrious in the world, but during the early years of the settlement an extraordinary amount of sickness prevailed in Melbourne. The excitement

of change of country, the extreme heat of the summer months, aggravated, in not a few instances, perhaps, by excess, and the unwholesomeness of the water previous to the erection of the sieve above the falls, induced a class of diseases which have not yet disappeared, but which have not recently been of so dangerous a character, probably in consequence of their treatment being better understood by the medical profession. The angel of death stalked abroad in the infant metropolis, and cut down many victims. The most fatal diseases were fever and dysentery. The former, known as colonial fever, was most dangerous at this period ; but, when the doctors began to use stimulants in considerable quantities, they were able to bring the great majority of their patients through. At one period the deaths in Melbourne, then a small place, were from fifteen to twenty a week. The following remarks upon the causes of this sickness are extracted from an early number of the *Port Phillip Gazette* :—

“A combination of unfavorable circumstances has produced, as was to be expected, an unhealthy season, dysentery and fever having sent many victims to the grave, and impressed a general fear upon the inhabitants respecting the healthiness of the climate. Port Phillip, or rather Melbourne, has not been singular in this visitation. Every colony has participated in the consequences of epidemic diseases, possessed of various features, but all evidently receiving their immediate origin in the extraordinary heat of the season. To young and vigorous colonies like those on the southern coast of this continent, planted and supported by a race full of youthful energy in corporeal as well as mental faculties, the sudden introduction of disease, especially in its first inroad, instils a dread far greater than the regular footsteps of death’s angel inspire in communities of older date. In Melbourne, however, the average rate of mortality during the extremity of sickness did not exceed fourteen or fifteen a week, which, from a population of six thousand, exposed to the evils arising from imported disease and local incitements, both of a natural and artificial character, is not to be viewed with feelings of extraordinary alarm. Experience in the influences of a summer—in all probability the most unhealthy that will visit us for the next half-century—satisfies our mind on two points that well deserve the consideration of every colonist.

“The comparison between the effects of heat in this country and that

of India convince us that the climate is in itself essentially wholesome. To persuade the reader more readily of so curious a deduction, we have only to assure him that in the capitals of the Indian provinces, where the heat seldom exceeds that which was felt in Melbourne during last December and January, a similar exposure during the day would have overwhelmed the white inhabitants with the most violent and fatal attacks. The thermometer in Calcutta averages 80° during the year, yet in few instances are individuals found independent of the constant and almost childish assistance of their black dependants; lassitude of action, weariness in exertion, and positive inability for active occupation marks the life of the European in India. Luxuries of every kind within doors and out of doors are invented and used to support the exhaustion of frame incidental to the climate—palanquins for carriages, punkahs and chatties to preserve coolness in the circulating atmosphere—obsequious menials, and every animate and inanimate instrument is in requisition to make life supportable. Mark now the contrast with regard to Australia. In a season of extraordinary heat, the thermometer standing 110° in the shade, 130° in the sun, men of business were to be seen in ordinary habiliments pursuing their ordinary avocations without recourse even to the moderate siesta of the Spaniard. Bushmen, on a day of intense and breathless heat, unless where the stagnating air was disturbed by a gust of wind as heated as a blast of a furnace, rode for hours under a broiling sun, their faces scorched, their bodies reeking with perspiration, without, however, any permanent symptoms of injury, or even of temporary incapability; these indisputable facts speak volumes for the climate, which, in itself, we have sufficiently demonstrated, is superlative. How else could the inhabitants encounter with such impunity, in wet as in hot seasons, every vicissitude of weather, every inclemency of the atmosphere? But the general state of sickness that prevailed among the actual residents of Melbourne leads us to seek somewhere for its causes, and these, by observations, we have traced to the unfavorable features of its locality. Seated on a river that supplies, at such times as we have described, water of the most unwholesome kind, with a marsh in front, a second in its rear, Melbourne, until artificial means are introduced to counteract the bad quality of the one, the malaria of the other, must remain an unfavorable choice for arriving immigrants.

The Yarra Yarra during such seasons, dwindling at its sources, contracts the column of its naturally pure water and admits an unusual progression of the salt tide. The marshes, acting as deposits for the overflowing stream and superabundant rain in winter, yield, under the extraordinary heat of a summer, a dangerous exhalation. Added to these causes, its position excludes it from the sea breeze, the Government taking no pains to clear the dense wood that lies between the town and the bay. What is it that gives Sydney its peculiar charm, but its situation on the sea, where the torpid day is invigorated by the coolness of the night, an advantage which, in Melbourne, is wilfully neglected. In the town, the want of proper sewers and drains, the obligation under which the inhabitants rest of living like swine in the filth of their own styes, inhaling the effluvia of decomposing matter and putrifying water, will soon involve, unless remedied, the immediate value as well as future character of Melbourne as a provincial metropolis. It is sincerely to be trusted that the early obtainment of a municipal council will supply the town with proper civic conveniences, and that the sale of suburban land, by bringing the surface under cultivation, will rescue it from the depreciation it now suffers in the estimation of reflecting men."

James Backhouse, the Quaker missionary, visited Port Phillip in 1837. The following is his description of the infant city of Melbourne :—

" 13th November. The Yarra Yarra is deep, but it is difficult to navigate for boats, on account of the quantity of sunken timber. It is about sixty feet wide, margined with trees and scrubs. The river is fresh to Melbourne, where there is a rapid. The country on its banks is open grassy forest, rising into low hills. The town of Melbourne, though scarcely more than fifteen months old, consists of about 100 houses, amongst which are stores, inns, a jail, a barrack, and a school-house. Some of the dwelling-houses are tolerable structures of brick. A few of the inhabitants are living in tents, or in hovels resembling thatched roofs, till they can provide themselves with better accommodation. There is much bustle and traffic in the place, and a gang of prisoners are employed in levelling the streets. The town allotments (of half an acre each) were put up here, a short time since, at £5 each, the surveyor thinking £7 too much to ask for

them. But the fineness of the country has excited such a mania for settling here that they sold for from £25 to £100 each.

"Business was at this time conducted on a very disagreeable and unsound plan. Almost everything, including labor, was paid for by orders on Sydney or Van Diemen's Land; the discount required by the few persons who had cash was from £30 to £40 per cent. A mechanic received half his wages in goods, charged at about 30 per cent. profit, and the rest in an order, which he paid his employer 10 per cent. to discount."

Mr. Backhouse remained from the 6th to the 19th November in Melbourne, residing at the missionary station on the Yarra Yarra, under the charge of Mr. George Langhorne. He also visited Mr. J. Gardiner, who then resided on the creek which still bears his name, and who was one of the first overland travellers from New South Wales. Mr. Backhouse also visited Mr. Batman, who expressed a deep interest in the welfare of the aborigines, and who had several Sydney and Van Diemen's Land aborigines in his employment as servants. He dined with Captain Lonsdale, the police-magistrate and officer commanding the troops, with whom he had some conversation on the importance of inquests being held on the bodies of blacks who have met violent death. He left in the *Endora*, on the 19th November, for South Australia.

CHAPTER V.

Steady Progress of Port Phillip.—A Local Government organised.—Charles Joseph LaTrobe appointed Superintendent.—The peculiar position which the Ruler of a Colony occupies.—Mr. LaTrobe's Character and Administration.—Subordinate Officials of the Government.—Misfortune to Port Phillip of its connection with New South Wales.—Opposition to the division of that territory by the aristocracy of Sydney.—Sir George Gipps declines to carry out the order.—Revenue and expenditure of Port Phillip.—Census of the Settlement in 1841.

PORT PHILLIP alone, of the Australian settlements, was opened up by individual enterprise, unaided either by the Home Government or a powerful British Association; nor is it surprising that, at first, it progressed with slow and laborious steps. It had not an influential Governor and a staff of

officials, like the neighboring colonies of South Australia, Swan River, and Tasmania; for, until the appointment of a Superintendent, in 1839, there was no official representing the distant Government at Sydney of higher pretensions than the police magistrate. So great was the advance of the settlement, however, and so rapid the increase of population, that the Imperial authorities were convinced that it would be necessary to establish a local administration, and in the early part of 1839 a Superintendent was nominated, into whose hands the local government was to be entrusted. The appointment of Mr. LaTrobe was announced on the 28th March, 1839, and he arrived at Melbourne in September of that year. It is at this period, therefore, that the political history of the colony may be said to commence.

There is no class of individuals, perhaps, whose conduct is so severely criticised as the governors of distant and isolated dependencies. The widest possible difference of opinion will be found usually to prevail in respect to their abilities, and they are as much over-praised by one faction as they are unfairly censured by another. The settlers, in many instances, rank themselves on two sides—the one for, the other against, the chief administrative officer, and, as there can scarcely be any other local politics in a new colony, the newspapers identify themselves with the belligerents, and devote columns of their largest type to either writing up or writing down the vice-regent of the sovereign. From these excited and, too often, highly-colored fulminations, the inquirer after the real facts in a colonial dispute must often turn away in disgust. The principles of justice and philanthropy which the writers for the press profess, and, indeed, usually act upon, are, in such cases, completely forgotten; and it cannot be concealed, even from superficial observers, that they are actuated by motives of questionable political morality. It must not be supposed that it is here insinuated that the editors of newspapers in colonies are below their contemporaries in education and taste. The truth is, that the proprietors of those organs of public opinion, in many cases, publish such writings as are most likely to please their customers; for few are in a position so independent as to be able to act with strict impartiality. The political warfare which is urged between colonial factions bears no resem-

blance to the uniform, continuous struggle going forward in Britain between the great liberal and conservative parties. One division has the Governor in their interest, and monopolise the honor and patronage of the Government, and it is their policy to represent his Excellency and all the Officers of Government as the best men and the ablest administrators of the public affairs which could be found. The opposing faction glare with ill-disguised aversion at their opponents, who have obtained power; they represent the Governor as incompetent, and his officials as corrupt and imbecile. The struggle between the parties is severe, the one striving to maintain themselves in power, the other to eject them from the monopoly they have possessed themselves of, and to obtain the same privilege for their own party.

As the audience before whom this strife proceeds may be set down as more or less interested in the ultimate result, and as the private history of each individual is known to every other person, so personal inuendoes and virulent attacks on private character are much more frequent than in Britain. The combatants see each other often, and almost daily come into immediate contact; they have few topics to engage and direct their attention, and they have plenty of time to nurse and preserve their political animosities. A struggle between contending factions in a new colony has seldom any generous or liberal features; there is no specious gloss of sentiment thrown over it. Any one too refined to use plain, rough language, and fight hand to hand in mortal combat, would speedily sink into insignificance in such an arena. It would be impossible to deny that the early colonists and the public writers of the Colony of Victoria were not untainted with the too common failing; and Mr. LaTrobe, the first Superintendent of Port Phillip, occupied the position of those placed at the helm of affairs in Dependencies governed upon the bureaucratic principle.

The son of the Rev. C. J. LaTrobe, by his marriage with Miss Sims, the daughter of a Yorkshire clergyman, he is descended from a family who emigrated from the South of France in 1685, and settled in Ireland. In the year 1835 Mr. LaTrobe married the third daughter of M. de Montmolin, a gentleman of good position in the principality of Neuchâtel, in Switzerland. Like his father, he is

a Moravian, and, like him, has contributed to the literature of the day; he has been a traveller in various lands, and written books describing his rambles in them; and, in the capacity of companion to a foreign count, accompanied the celebrated Washington Irving in his well-known tour on the American prairies. He seems, however, to have had no settled mode of life previous to the period when he attracted the notice of Lord Glenelg. He was selected to undertake the tour of the West Indian Colonies for the purpose of reporting upon the application of the funds voted by Parliament for the education and moral improvement of the negroes. He next obtained the appointment of Superintendent of Port Phillip, chiefly through the exertions of the Exeter Hall party, who possessed great influence with the then Secretary of State for the Colonies. It has been asserted that Glenelg had only intended Mr. LaTrobe to be the Superintendent and Protector of the Aborigines—of that Christian nobleman, like the great sovereign of Aragon and Castile, Isabella, was very anxious about the preservation and protection of the black men in the Colonies—but that he was induced to nominate him the Chief Administrative Officer of the new settlement. There appear good grounds for believing that it was to the character for philanthropy which he, as belonging to a well-known Moravian family, enjoyed, that he owed the appointment. Mr. LaTrobe, the Superintendent and first Lieutenant-Governor of Victoria, is a gentleman of prepossessing manners, amiable and conciliating disposition, and cultivated taste. He is gifted with considerable literary ability, and many of his public documents display no little power; it is unfortunate that he is not endowed with greater firmness, and more independence of character. He cannot be accused of having ever acted in a tyrannical manner, and he did his best to conciliate all classes; the charge that may with justice be brought forward against him is that of insincerity. He was too free with his professions, and too tardy in fulfilling them; he avowed too eagerly his desire to satisfy such suitors as were compelled to wait upon him, without having the slightest wish or intention of granting their requests. Many of the colonists were plain men of business, unused to courtly modes of address, who, considering his sedulous attention and insinuating manner equivalent to a direct promise, left his presence in full

expectation of having their requests granted. It is more than probable that Mr. LaTrobe forgot that they were in existence an hour after they had left his room of audience. And the neglect or opposition of the head of the Government to what suitors deemed their fair demands was, no doubt, in many instances, contrasted with his specious and insinuating manner, which had led them to regard him as their friend. The disappointed were more deeply irritated than if he had refused their requests, and plainly informed them of the reasons which prevented him from granting them. The great cause of Mr. LaTrobe's unpopularity, however, was the line of conduct he followed during the period he held office as Superintendent. In the first phase of its political existence, Port Phillip was a dependency of a dependency the form of government being an irresponsible despotism. Whatever was done amiss was unwillingly born by the colonists, because the blame could not be placed at the door of any officer of the Government. Mr. LaTrobe disavowed all responsibility, declaring that he was only the nominee of the Governor and Executive Council of New South Wales. There is little doubt, however, that he was allowed to govern Port Phillip according to the dictates of his own judgment; for, whatever faults may have been attributed to Sir George Gipps, he has never been accused of duplicity, and he used the following remarkable language :

“ He had great experience of the difficulty of governing Port Phillip, at a distance of 600 miles, and it would be a subject of congratulation to him to get rid of it. He was glad when Mr. LaTrobe arrived, and since then the administration of the affairs of Port Phillip might be truly said to be the administration of Mr. LaTrobe; he (the Governor) had acceded to all his wishes as far as he could, and on no occasion had he found it necessary to interfere with or censure any of his proceedings.”

This assurance was given by the Governor, in the Legislative Council, in the most solemn manner, and is well deserving of credit. The line of policy which Mr. LaTrobe thought proper to pursue was calculated to stop the progress and injure the prosperity of the district. During the extended period that he administered the Government as Superintendent he never assisted the struggling colonists to obtain that justice to which they were entitled, and for

which they were earnestly fighting. While public meetings and agitations of momentous importance to the district were being held in Melbourne, the Superintendent either kept aloof, or assumed an attitude of direct hostility. The public documents connected with Port Phillip, which, by the oversight or rashness of the Imperial Government, were permitted to see the light, exhibited to the colonists the sad spectacle of the head of the local government arrayed against them. In no fewer than three instances was he thus found using his position to misrepresent the feelings and wishes of the colonists. He never, during his extended term of government, except in one instance, the landing of the convicts by the *Randolph*, incurred any responsibility, or did one solitary act deserving of commendation: even after his elevation to the rank of Lieutenant-Governor of Victoria, at the era of separation, he displayed few qualities likely to inspire confidence. His administration was notoriously vacillating and pusillanimous. His proclamations were treated with derision by the people; rash and bold up to the very point, when resistance seemed probable, he succumbed to the dictation of the diggers when they assumed an attitude of hostility or defiance towards his Government. Overbearing towards the people when he ought to have been conciliating, no sooner did symptoms of insurrection appear, and it was necessary for him to exhibit firmness, than he sank into a state half-way between timidity and imbecility. To his conduct in weakening the authority of the Government may be attributed the outrages which burst forth during the administration of his successor, and which helped to hurry that gentleman to an untimely grave. To his mal-administration of the public lands may, in a great measure, be traced the terrible financial crisis of 1853 and 1854, in which so many persons had their hopes blasted and their fortunes ruined. He shut up the whole of the lands during the first years of the gold diggings, not alone in the country, but also in the suburbs of Melbourne, and the inevitable consequence was, that, there being no legitimate out-let for surplus capital in Crown lands, it went into other investments, such as lands already alienated—which were thus raised to an exorbitant price—and merchandise and other property. Private landowners occupied themselves in subdividing their suburban lots into very small pieces, and enormous speculation went on in

them. In the very midst of this the Government began a new line of conduct, and threw great quantities of suburban land into the market, thus reducing it, again to its legitimate price. But those who had been speculating at the fictitious rates were ruined, and they involved many others; then came the scarcity of money, which was increased by the drain from the enormous Government land sales. The crisis will be alluded to in a future page of this history; but, unfortunately, many have too good cause to remember it, without refreshing their memory by referring to any record.

It must be admitted that, notwithstanding his vacillation and want of adroitness in public affairs, opinion is yet divided about the public character of Governor LaTrobe. Many, nearly all, the old colonists of standing had, at one period, a portion of their capital embarked in squatting pursuits, and His Excellency went as far as he possibly could in favor of this powerful body, who uniformly adhered to him. He supported all religious and charitable institutions, not only from the public funds, but also, as his friends asserted, from his private purse. There was, moreover, a particular clique who had received many favors from him, and who were constantly sounding his praise: but however Mr. LaTrobe was lauded or tolerated by many in the colony, there were few reflecting minds who had not long earnestly desired his recall. This was so long deferred, upon one frivolous pretence after another, that the public mind became quiescent; and the people began to consider him as a fixture. When his departure was at length announced, he was deeply sympathised with in consequence of a severe family bereavement, which he had just experienced. Those who condemned the Governor could not help feeling for the man who had grown grey amongst them, and who was now quitting their shores in trouble and distress. The Press had, moreover, commented pretty freely upon his public conduct, and not a few, who did not enter very deeply into the great public question which had been at issue between the Governor and the people, looked upon the former as a martyr to editorial vindictiveness. There can be no doubt that, with his fair abilities and unimpeachable private character, he might have acquired very great popularity had he been unequivocally honest and straightforward in his public capacity, and, even if he had not joined the people in obtain-

ing justice, had only acted an impartial part in the struggle. It must be admitted that Port Phillip was at this time in a very peculiar position; and, perhaps, had Mr. LaTrobe been in the first instance sent out as Governor he would have given much more general satisfaction, and the historian might have been spared the disagreeable task of severely censuring his public actions. He was not, perhaps, worse than the majority of officials who, in former days, previous to the era of responsible government, held an almost irresponsible power from Downing street; indeed, he was not so haughty and overbearing as many of the order who were to be met with in the colonies. He was accessible and generally courteous, as has already been stated. That he sacrificed the dearest interests of Victoria to please his superiors in Sydney, can be too easily demonstrated. It is probable that, had the interests of his people and those of the authorities in New South Wales been identical, he would have been pleased, but the contrary being the case he devoted himself, heart and mind, to gratify the hostile view of the latter without any compunction of conscience. The Governor of New South Wales at an early period in his career was not so inimical to the interests of Port Phillip as the other members of the Executive Council, who wished to plunder its revenues in order that they might use them in improving the middle district, and they found Mr. LaTrobe willing to aid them in this system of national spoliation.

It will thus be evident that any impartial historian must condemn Governor LaTrobe and his system of government. He displayed an almost undisguised antagonism to free institutions, and social progress—he retarded the separation of the southern district from New South Wales as long as possible—he prevented money actually voted by the Legislature of New South Wales for public works urgently required from being expended; and this, moreover, at a period of great distress, when many families were out of employment, and had to seek for it in other countries. The whole of these charges will be fully proved in this history. His friends have asserted that he opposed the efforts of the squatters to confiscate the lands and to shut up the country, against legitimate occupation by *bona fide* purchasers; but it will be found, on bestowing some atten-

tion to the subject, that, while he did oppose some most unreasonable requests which were from time to time preferred by private parties, and did allow a few comparatively poor squatters within the settled districts to be driven away from the Government land, he was, upon the whole, favorable to squatting domination.

The appointment of Mr. LaTrobe was gazetted in Sydney on the 30th July, 1839, and he was sworn in on the 10th September of the same year. The district was declared to extend south of latitude 36 degrees, and between the 141st and 146th degrees of longitude. This formed what was afterwards known as the southern or Port Phillip district of the colony of New South Wales, until separation. When Gipps Land was discovered, a few years later, it formed a portion of the new district. On the 30th September, 1839, the *Pyramus*, with Mr. LaTrobe on board, arrived; and on the 2nd October he met the colonists at the Auction Company's rooms in Collins street, and received their address. His reply would have gratified his patron at the Colonial Office—partaking more of a moral essay or sermon than a political address, and in the adjoining colonies earning for him the nickname of “Praise God Barebones.” The new ruler of Port Phillip was received with enthusiasm; his salary was at first only £800 per annum, but it was afterwards advanced to £1500.* He was enabled to purchase the fine property of Jolimont, on the Richmond road, at a mere nominal sum, no person bidding against him:—it is now exceedingly valuable. He resided on this domain during the whole period of his residence in Port Phillip. Captain Lonsdale, who had been acting as stipendiary magistrate, was now appointed Sub-Treasurer, and Mr. James Simpson succeeded him on the Police Bench. Mr. Croke (an Irish barrister) was appointed the legal adviser to his Honor, which office merged, on the arrival of a resident Judge, into that of Crown Prosecutor. This gentleman held the latter office until separation, and was then (contrary to the wishes of Governor LaTrobe) appointed Solicitor-General of Victoria. He was rather peculiar in his temper and eccentric in his manner, and occasionally made ludicrous blunders in Court; but he was a sound lawyer and an honest

* This advance was given in consequence of the appointment of a resident Judge with the same salary.

man. At the time that Mr. LaTrobe was elevated to the higher rank of Lieutenant-Governor, when several members of the Melbourne bar waited on him on his return from Sydney, to congratulate him and court his patronage, Mr. Croke declined to accompany them. He would not conceal his opinions of the new luminary, and was too independent to court a man whose public policy was distasteful to him. In retaliation for this, or because he did not think his abilities sufficient, the Governor refused to give him either of the legal appointments which were created by the inauguration of the new colony ; but Mr. Croke appealed to the Colonial Office, and Mr. LaTrobe was directed to bestow either the Attorney or Solicitor-Generalship upon him, and that official, very much to his dismay, was obliged to nominate him to the latter office. He did not long act, but obtained leave of absence, and died in 1856 in London. He was much regretted by several old colonists, who forgot his oddities and eccentricities, and remembered only the good points in his character, acting on the principle—

Be to his faults a little blind,

And to his virtues very kind.

It was a great misfortune to Port Phillip that it happened to be nominally within the geographical limits of New South Wales, and was, consequently, claimed by the Government of that colony. But for this unfortunate circumstance it would have been at once established an independent colony, like South Australia. The Imperial Government had no desire that Port Phillip should be attached to New South Wales, but, having been lawfully taken possession of, the Ministers of the Crown tacitly acquiesced in the act of Sir Richard Bourke. That governor, indeed, considered he was only exercising his legitimate powers, and was little disposed to be either an oppressor or an enemy. But his successor was surrounded by the aristocracy of New South Wales, who viewed the fine lands of Port Phillip as lawful spoil ; and he was, to some extent, influenced by those views, and could not act altogether according to his own judgment. A few years later, when the new settlement was rising into notice, an Order was issued, bearing the royal signet and sign manual, dividing the colony of New South Wales for all purposes connected with the sale of land. At this time Sir George Gipps, who had succeeded Sir Richard Bourke, was anxious to become popular with the aristocratical Council of

Sydney, and, at their desire, made every effort to retard or overturn the movement. The whole influence of the wealthy colony of New South Wales was brought into operation, and every effort was made by the Legislature (composed, at the time, of nominees of the Crown) to prevent even the territorial dismemberment of the colony. The Bishop of Australia (Dr. Broughton) was particularly energetic, and his arguments evinced too clearly that the colonists of the middle, or Sydney, district looked upon the revenues of Port Phillip as fair spoil. His Lordship said—"The revenue arising from the district of the colony, it must be remembered, would go into other treasuries, and the emigrants would be landed at other ports; and where the emigrants arrived there would be the greater demand for produce of all descriptions; there stores would be built and merchants congregate; where ships arrived there would the wool be carried for shipment, and there would the supplies be purchased for the stations, and there would the money circulate." The right reverend father had as great a fear of Port Phillip receiving the benefit of her revenue, and, in consequence, becoming prosperous, and the rival of Sydney, as the temporal potentates—such as Sir John Jameson, Messrs. Macarthur, Jones, Berry, and Blaxland. Mr. Hannibal Macarthur, the ablest man, perhaps, next to the Governor, in the Legislative Council at this time, said the change had come upon them like a thunderbolt, but they resembled more the earthquake threatening to involve the colonists of New South Wales "in universal ruin." The Governor was not only backed up by the Legislative Council, but, by a public meeting of the colonists,* and, nothing loath, considered himself justified "in not obeying his instructions in reference to Port Phillip."

* The following is a literal report of this much vaunted meeting, from the *Australian Chronicle*:—"The 'meeting' on Thursday was unquestionably one of the most curious that we have ever attended—either in this or any other country. Speeches and resolutions deprecating a 'dismemberment' of the colony, and at the same time fixing the boundaries of the disjointed members; petitions to both Houses of Parliament, voted by about twenty-five persons in the name of the entire colony; a 'letter of instructions from the colony of New South Wales,' drawn up by a small Committee, and carried by a show of ten hands; thanks voted to a Major Macarthur, in London, by five uplifted arms, and a speech from his colonial brother, telling how grateful the Major would be when he learned that five of his fellow-colonists had deigned to notice his patriotic exertions. These things were indeed extraordinary; and yet they were not one-half of the curious things that a spectator might not have noted on that memorable day."

It may not be out of place to glance briefly at the financial position of Port Phillip, with reference, more particularly, to her standing account with the Treasury in New South Wales. The following return of revenue and expenditure from 1836 to 1842 is from official papers:—

					REVENUE.	£	s.	d.
1836	0	0	0
1837	2,358	15	10
1838	2,825	17	10
1839	14,703	5	10
1840	36,856	1	6
1841	81,673	10	4
1842	84,566	9	3
Total						£222,984	0	7

In this period the actual expenditure for the Government of the Province of Port Phillip, exclusively of immigration, was as follows:—

					EXPENDITURE.	£	s.	d.
1836	2,164	16	8
1837	5,879	2	4½
1838	16,030	2	5½
1839	24,034	10	4½
1840	41,374	18	4
1841	74,324	19	4½
1842	91,156	10	11½
Total						£254,965	0	6½

This return exhibits a slight balance against Port Phillip, but the territorial revenue is not included. The following sums were obtained by the Sydney Government for land, a great portion of which (more particularly of the enormous sum realised in 1840) was from the southern district:

						£	s.	d.
1836	..	..	..	..	..	126,458	16	0
1837	..	..	..	..	..	120,427	0	5
1838	..	..	..	..	..	116,324	18	11
1839	..	..	..	..	..	152,962	16	4
1840	..	..	..	..	..	316,626	7	5
1841	..	..	..	..	..	90,387	16	10
1842	..	..	..	..	..	14,574	10	4
Total						£937,762	6	3

Of this the following sums were derived from the sale of land in Port Phillip :

					£	s.	d.
1838	..	..	..	..	25,287	17	9
1839	..	..	..	..	50,986	11	11
1840	..	..	..	..	134,584	6	3
1841	..	..	..	..	68,435	7	0
1842	..	..	..	..	2,000	0	0
Total					£393,911	11	1

EXPENDITURE ON IMMIGRATION.

Paid by Colonial Treasurer.				By Colonial Agents in London.			
		£	s. d.			£	s. d.
1838	..	..	29 4 0	..	..	555	0 0
1839	..	..	11,474 11 4	..	..	350	0 0
1840	..	..	23,296 15 4	..	..	4,622	17 2
1841	..	..	121,979 4 9	..	..	3,986	8 1
1842	..	..	37,747 6 1½	..	..	145	2 3
Total Expenditure				..	..	£204,446	5 0½
						£	s. d.
Total Revenue from all sources				..	..	616,895	11 8
Total Expenditure				..	..	459,411	5 0½
Balance				..	..	£157,484	6 7½

The exact sum appropriated by New South Wales from the legitimate revenues of the Port Phillip District.

The following particulars of the Census of Melbourne in 1841 will give a tolerable picture of the social condition of the people :—

POPULATION—of Melbourne, 4,479 ; of county Bourke, 3,241 ; of the district of Western Port, 1,391 ; of Geelong, 454 ; of county Grant, 336 ; of Portland, 597 ; and of county Normanby, 1,260.—Total, 11,728.

HOUSES—in Melbourne, 769 ; county Bourke, including Newtown and Williamstown, 432, besides 67 huts ; district of Western Port, 110 ; Geelong, 81 ; county and district of Portland Bay, 100—Total, 1,559.

CONDITION.—Convicts employed by Government, in Melbourne, 64 ; in county Bourke, 34 ; district of Western Port, 5 ; Geelong, 20 ; county Grant, 17 ; in Portland, 2 ; district and county of Portland Bay, 4.—Total, 146. In private assignment—in Melbourne, 10 ;


county of Bourke, 70 ; district of Western Port, 122 ; Geelong, 6 ; county of Grant, 0 ; county and district of Portland Bay, 23.—Total, 213. Total of convicts in the district, 359 (exclusive of two women). Of the male free population, there are 215 colonial born ; 6,500 arrived free ; 104 emancipists ; 124 holding tickets-of-leave. Of the free female population, there are 341 born in the colony ; 2,908 arrived free ; 104 emancipists ; 2 holding tickets-of-leave.

RELIGION.—Church of England, 6,194 ; Church of Scotland, 2,94 ; Wesleyan Methodists, 651 ; other Protestant Dissenters, 353 ; Roman Catholics, 1,441 ; Jews, 59 ; Mahommedans and Pagans, 10.

STATION IN LIFE.—Employers of labor, including professions and trades, 1,767 ; laborers of every description, 8,926.—Total, 10,693.

CHAPTER VI.

Great Meeting in Melbourne in favor of separation.—Memorandum adopted for distribution amongst members of the Imperial Parliament.—Appointment of Mr. Justice Willis to Port Phillip.—Threatened dismemberment of the Portland Bay district.—The spoliation of Port Phillip is continued.—Sir George Gipps visits the district.—Discovery and settlement of Gipps' Land.—New Land Regulations.

 GREAT public meeting of colonists, on the exciting subject of separation, took place in Melbourne on the 30th of December, 1840, in the store of Mr. Isaac Hind. The chair was occupied by William Verner, Esq. (the first Commissioner of Insolvent Estates), a gentleman very much respected at this period in Port Phillip, but who returned to England a short time afterwards. The leading merchants of Melbourne, as well as the lawyers, physicians, stock and land owners of the district, were present, and it was demonstrated, in a gratifying degree, that there existed a strong political cohesion amongst the colonists, and that public opinion was aroused on the all-important topic—the independence of Port Phillip.

The best speaker upon this occasion was Dr. Bernard, the author of "The Voyage of the Nemesis," at this time a resident in Melbourne ; he spoke about an hour. A correspondent thus mentions

his address: "The language was good, pure, and energetic, and embraced every topic under consideration." The meeting was also addressed by Messrs. Barry, Cunningham, Mollison, Arden, and one or two others, and the greatest unanimity prevailed. A petition to her Majesty, to allow a separate government for Port Phillip, and to preserve intact the boundaries as appointed by an Order in Council of 23rd May, was adopted, and numerously signed. A great deal of public spirit was displayed by the colonists of Port Phillip at this period, and a strong effort was made to counteract the influence of the aristocracy of Sydney, which had been brought to bear on the Colonial Office, in order to prevent the dismemberment of the colony.

On the first day of March, 1841, another meeting was held in the store of Mr. T. McCabe, and a memorandum was unanimously adopted for distribution among members of Parliament. It was carried to England by three very respectable colonists, Messrs. Yaldwin, Mercer, and Gardiner. This document was compiled with considerable ability, and was fully adequate for the intended purpose. It proceeded to controvert the misstatements in fact, and the fallacies in argument, which the inhabitants of the middle district had put forth in the course of their agitation for preventing the division of the colony. Those persons had objected to the dismemberment of the southern from the middle district of New South Wales "because it would deprive the colonists of the advantages of social and political unity—they being at present like one great family, bound together by interest and sympathies." The Port Phillipians replied to this argument very happily. They said, "The inhabitants of the southern district recognise no force in this objection, no truth in the assertion which accompanies it; for what advantages can accrue to the inhabitants of a free colony from social or political unity with a penal settlement? Social unity does not now exist between the two portions of the colony, and it never can exist between two districts so widely different in their social origin. With regard to political unity, it is true that there is, *de facto*, a political unity, inasmuch as the affairs of both divisions of the colony are administered by the same Governor, and in the same Legislative Council, yet the political unity extends no further. It does not

exist in sentiment, in opinion, or in interest. The colonists of Australia Felix care little for what has long been considered the great question by the elder colony, that, viz., which respects the rights and social position of the emancipist population; they wish for no share in the supply of convict labor given to the middle district, and they are happily free from the violent religious disputes which disturb the peace of Sydney. The assertion that there exists between the two portions of the colony a community of interests and sympathies is a mere begging of the question at issue, and will not be conceded by the colonists of Port Phillip, who know that with the older colony they have few common interests, and no mutual sympathies." Another objection which the Sydney petitioners point out is "that the dismemberment would, in reality, leave the parent colony all but destitute of a land fund. The competing colonies would demand the application of their respective land funds to their own exclusive necessities; immigration would therefore be drained from the parent colony, and be absorbed by the urgent necessities of her growing offspring." The colonists of the southern district joined issue with their opponents here, and showed the great injustice of the claim of the middle district to have any portion of the land fund of Port Phillip, particularly when, at this very time, there was not a single land-owner, and scarcely a single stockholder, in that middle district who had not a certain number of convict servants assigned, while, in the southern district, assignment to private individuals was unknown, and there were so few on public works that many large land-owners on the Sydney side had more prisoners of the Crown assigned to them than was awarded to the whole public service of Port Phillip. The middle district had lamented over their scanty land fund; in reference to this the Port Phillipians very pertinently observed:—"What, then, has become of those immense tracts of land in the middle district which were available as the source of a land fund? Partly, they have been already sold, and the proceeds applied to colonial purposes, and it seems scarce reasonable to expect both to spend these proceeds and to have them. Partly, also, they have been alienated in grants to the individual settlers of the middle district, and, if this mode of disposal has not swelled the public coffers, it has at least served to enrich almost all the older

settlers who now seek, at the expense, and by the assistance, of the southern district, to cultivate these very lands, the free grant of which to themselves has deprived the older colony of these portions of its land fund."

The Sydney petitioners had further attempted to show that the division of the colony would be a source of great inconvenience to some who resided in the middle district, but had sent stock up to graze in the southern province; they had, moreover, asserted a parental claim. But the Port Phillip memorial proves that they had nothing to do with the settlement of Port Phillip, and that the great bulk of the then colonists did not arrive there from Sydney, but either direct from Britain or from Van Djemen's Land.

It is of some consequence to history that the dispute, even at this early stage, should be set forth in its true colors. The Sydney people had more influence in Britain, but the Port Phillipians had the best of the argument. The concluding portion of the memorandum seems perfectly conclusive, and it is scarcely necessary to offer any apology for extracting it. "But there is yet more to be said with regard to this question of separation. The Sydney petitioners affect to be taken by surprise by it, as if they had never before heard of the probability of such an event, as if they had seen no previous arrangements anticipative of such a course. Have they forgot that, at the first government recognition of the settlement of Port Phillip, Governor Bourke announced for this district a new system of survey and land sales, viz.—a system of continuous survey and periodical land sales—a system which was not extended to any other of the newly-opened districts of the colony, but solely and peculiarly to the southern or Port Phillip district? And, following up this peculiarity of regulation, Sir Richard Bourke announced, in repeated proclamations, that there should be no assignment of convicts to the new district, a proclamation which, with two or three individual exceptions, has been strictly adhered to. But, if all this escaped their notice, how could they be blind to the fact that, from the very outset, the accounts of the provincial revenue and expenditure were kept distinct from the general revenue of the colony, and the burden of supporting the province during the first three years of its existence made a charge,

not upon the colonial treasury, but on the revenue arising from the sale of the waste crown lands? Did the petitioners, did the public of New South Wales, believe that all this speciality of regulation with regard to the new district was adopted without aim or object, or did they not perceive that this separated system which marked the new district was indicative and anticipative of a separated government, and that the colonists of Port Phillip were deprived of the advantages of convict labor only to save them, as a future colony, from the stain of having been a penal settlement."

The cause of the new settlement was warmly espoused by John Richardson, Esq., M.P., to whom the petition for separation had been entrusted. Lord John Russell, however, and other persons of rank and influence, received the advances of the Port Phillip advocates rather coldly, and it was too evident that Sydney influence had been at work, and that it would be a hard struggle to obtain the boon so much longed for by the colonists of Port Phillip.

In the early part of 1841 it was found necessary to appoint a resident judge to the Port Phillip district. It was anticipated that Mr. Stephen (who has since been created Chief-Justice of New South Wales) would have been selected, but the choice fell on Judge Willis. Mr. John Walpole Willis, at this time one of the puisne judges of the Supreme Court of New South Wales, was a very accomplished gentleman and an unusually able lawyer. His father was the well-known Dr. Willis, rector of Wapping, who attended George the Third in his illness, and was celebrated for his skill in treating the insane. Judge Willis had been brought up to the legal profession, and had practised, for some time, in the Court of Chancery. He was afterwards nominated a Puisne Judge of the Supreme Court of Upper Canada, from which office he was removed by Sir Perigrine Maitland, for expressing an opinion contrary to the legality of the constitution of that Court. The provincial Parliament of Upper Canada, after investigating the whole matter, adopted an address to the King, praying that he might be reinstated in the office of puisne judge. This document bears date 19th March, 1829. He did not return to Canada, however, but was soon after appointed Vice-President of the Court of Civil and Criminal Justice, and afterwards first puisne judge of British Guiana. In 1836 Mr. Willis was com-

pelled to go to England in consequence of ill health, and he was on the eve of returning to Guiana when he received the appointment of a puisne judgeship in New South Wales. He bore a good character in Sydney, but not being on the best of terms with his brother justices, was very happy to be removed to Port Phillip, to occupy the position of resident judge. Some indications of his peculiar temperament were received from the valedictory address he delivered from the Sydney Bench, of which the following will be a tolerable specimen :—

“ Here I have no near relation or connexion whatever. I am not directly or indirectly concerned in any land or commercial speculation, or in any of the public companies of the colony, nor have I any relative or connexion who is in any way interested in them. I have, in fact, no local connexion or interest, save that which arises from a due sense of the sacred trust of duly and impartially administering that justice which I am sworn to discharge. I come not within the scope of Mr. Bentham’s apprehensions. The danger and suspicion of partiality through private connexions must cease, when such connexion does not exist. Fearlessly do I say, with Samuel, ‘ Behold, here I am, witness against me, before the Lord, and before his anointed. Whose ox have I taken, or whose ass have I taken, or whom have I defrauded ? whom have I aggressed ? or of whose hand have I received any bribe to blind mine eyes therewith ? and I will return it.’ ”

From this quaint mode of expressing himself, it will be inferred that the first Judge of Port Phillip was slightly eccentric in his behaviour. A writer in Sydney thus alludes to the appointment of Mr. Willis :—

“ I have to congratulate you on the appointment of Mr. Justice Willis, as Resident Judge at Port Phillip. His Honor is not the nicest observer of the proprieties of the world, but he is an able judge, and, what is still better, an honest man. As an equity lawyer, his Honor has no equal in the Australian Colonies, and, though his opinions in common law cases have been frequently at variance with those of his learned brethren on the bench, they have always been such as to ensure the respect of the bar for his legal abilities, and the admiration of the public for his integrity.”

The above appears to have been the general impression entertained of the Judge in Sydney.

His Honor arrived at Melbourne on the 10th March, 1841, in the *Australasian Packet*, accompanied by his lady. The limits in which the Supreme Court of Melbourne should exercise jurisdiction were declared to be the same as those in which Mr. LaTrobe had been empowered to discharge the functions of Lieutenant-Governor, under the notice of 10th September, 1839. Mr. Willis was a judge in some respects well adapted for the peculiar post for which he had been selected. The community had for some time been in existence without any court, and an amount of lawlessness had, as a matter of course, been engendered. A certain number of persons had pushed themselves into prominence, who did not very much regard either the law, or the judge who administered it; money was beginning to be scarce, and those deeply indebted to their fellow-colonists were not always very scrupulous in their mode of evading payment; the lower orders had been drained from the neighboring penal settlements, and a majority were expirées, until the large free immigration of 1841 and 1842 gave the freemen an enormous preponderance: and the settlement required a judge of firm and resolute conduct. This Mr. Willis undoubtedly was; but, in addition, he exhibited an unfortunate infirmity of temper, that increased ten-fold the animosities which, under any circumstances, would necessarily have been raised up against him. He had no sooner fairly entered on his duties, and discharged some of the disagreeable functions of the bench, than the newspapers began to criticise his conduct. He seemed very much to forget his dignity on such occasions, and condescended to enter into personal altercations with the editors. It was not unusual for his Honor to send for any delinquent of this kind and reprimand him, something in the manner that King James was wont to summon the twelve judges to his council table, in order to soundly rate them. The character of Mr. Willis somewhat resembled that monarch's Chief-Justice, Sir Edward Coke: loquacious, interfering, honest, and inflexible, with nothing attractive about his manner, Mr. Willis might have taken the greatest of English lawyers as his model. The "Expostulation" which was addressed to Coke by Sir Francis Bacon, "for the purpose of show-

ing to him his true shape in a glass," might have been applied, by those unfavorable to Mr. Willis, to him. It must, however, be kept in view that the settlement was in a very peculiar condition at this period; that Mr. Willis saw a good deal of shuffling and knavery daily brought forward, and was, doubtless, actuated by the best motives. He was, however, not a little arbitrary, and disposed, occasionally, to interfere with the private concerns of individuals more than became a person of his exalted station. He reprimanded one of the members of the bar for keeping a stallion, and ridiculed another for sporting incipient moustaches. When he opened the Supreme Court, he intimated that he would insist upon the attendance of justices of the peace at all future sittings of the Supreme Court in its criminal jurisdiction. He did this that they might learn something of their duties. The magistrates not attending as suggested, the Judge again stated that, under the 9 Geo., 4 chap., 64 and 65, he had power to inflict a fine for non-attendance. He declared he would enforce this clause, and also have their names struck off the commission of the peace, and others appointed in their stead, if they did not obey him. In this manner did the Judge proceed, until he aroused a strong feeling of indignation against him amongst the gentry of the district, and which, eventually, led to his removal from the bench.

The colony of Victoria was at this time in some danger, of being dismembered, in a manner not very much in accordance with the desires of the people who then inhabited it. The Land and Emigration Commissioners, in a letter dated 7th July, 1840, recommended that that the Portland Bay district, including the fertile vallies of the Glenelg and the Wannon, and the plain of the Grange, should be added to South Australia. As might well be supposed, this proposition met with determined opposition, and was not carried out. The argument made use of by the Commissioners was, that, unless the eastern boundary of South Australia was extended, that dependency would not be able to support herself, and pay off the debt she had already contracted, and must come to be a burden on Britain. On the 15th September, 1841, a meeting of the colonists of Port Phillip was held in Melbourne, and resolutions embodying

the general feeling against the proposed alteration were unanimously adopted.

In opening the Legislative Council of New South Wales, in June, 1841, his Excellency said, in his address, "I am not quite able to lay before you any documents respecting the separation of the two colonies." His Excellency, alluding to the very large sum of £217,127, brought to the territorial revenue from Port Phillip, stated, "this afforded to the older parts of the colony the means of replacing the labor and capital which the opening of Port Phillip had drained from them." This unequivocal expression in favor of the spoliation of the southern district must have been very grateful to the nominee legislature of Sydney. The new settlement was indeed progressing with great rapidity. The Customs' revenue for the first quarter of 1840 was £1,597; for the first quarter of 1841 it was £5,609. The total amount of ordinary revenue for the first quarter of 1840 was £3,819; for the first quarter of 1841, £10,490. The colonists of the middle district, greedy of the land revenue of Port Phillip, and proud of having so fine a settlement as an appendage, resolved to strive as firmly as possible against the proposed disunion of the colony.

The district was, at this time, honored by a visit from the Governor of New South Wales, a gentleman distinguished as a statesman, and who had also served his country as a soldier. Sir George Gipps administered the government of the colony for nine years. He had the honor of introducing into this hemisphere both the elective legislature and municipal institutions. In the course of this period the social condition of the colony underwent a complete transformation: the lash and the chain had, in a great measure, disappeared, and human degradation was not openly obtruded upon the eye of the observer. A traveller, who visited the colony about the period that Sir George quitted its shores, said that he could tell very little difference between it and a city in Britain. That Governor Gipps was endowed with considerable capacity for public business will be apparent to those who are acquainted with the documents he has left on the land question and some of the most important topics of the time. As he belonged to the old *regime* he was violently attacked by the popular portion of the new legislature, many members of which

were anxious to wreak their long pent-up malice against the Governor and the government officials. Sir George Gipps had been accustomed to lead the debates in the nominee council; and he did not shrink from again entering the political arena with the popular members. But he found he had very different men to deal with. No argument, however fair, was listened to; and the most violent declamation was used by a few persons to annoy and browbeat his Excellency into submission. He stood his ground gallantly, and was admitted to have lost nothing in this contest; but the excitement was said to have undermined his health, and he died at Canterbury, immediately on his return to England. But, having done justice to his general character, it is our duty to state that he was not disposed to look with favor upon the new district of Port Phillip. He was under the guidance of the old colonist aristocracy of Sydney, who desired to have all the proceeds of the land of Port Phillip expended amongst themselves.

On Saturday, 23rd October, 1841, the *Seahorse* steamer, having on board his Excellency, accompanied by his aid-de-camp and private secretary, arrived in Hobson's Bay. The Governor landed at Williamstown, at ten o'clock, and examined the public buildings and government works in and around the place. He returned to the steamer, and again started for Melbourne. At the old Punt—where Prince's Bridge has since been built—he was met by a number of citizens, who accompanied him in a perambulation of the leading streets of the town. He then retired to Kelly's *Northumberland* hotel, in Flinders street (between Swanston and Elizabeth streets), where apartments had been made ready for him. On the following day, being Sunday, he attended divine service in the Episcopalian place of worship, now St. James's Cathedral, in Collins street.

On Monday his Excellency proceeded to Heidelberg, where Judge Willis then resided, and breakfasted with his Honor, and examined the country around that locality. At one o'clock he received the deputation appointed to deliver the Melbourne address, to which he returned a courteous answer. At two o'clock he held a *levée*, which was attended by a great number of the leading colonists in and around Melbourne. In the evening he visited the government institutions, and rode out as far as the Moonee Ponds and the Salt-

water River. On Tuesday, at an early hour, he embarked on board the *Aphrasia*, and proceeded to Geelong. On his disembarkation at the wharf of Corio he at once took horse, and traversed the Great Western Road until he reached the high lands overlooking the magnificent and picturesque valleys of the Marrabool and Barwon; he crossed the Marrabool at Fyan's Ford, and the Barwon at the Falls, near the junction of the two rivers; then skirted the Barrabool Hills; and, after examining the break-water, returned to Corio, where an appropriate address was presented to him by a deputation of the citizens. In reply, his Excellency stated that he would at once give directions for the commencement of a new court-house. He expressed himself highly delighted with the country, and promised to do all in his power for the benefit of the Geelong district. His Excellency next repaired to the residence of Captain Fyans, and partook of an excellent collation. He re-embarked on board the *Aphrasia*, and returned to Melbourne. On Wednesday he gave audience to the editors of the Melbourne papers, who complained of the newspaper act known as Darling's gagging act. His Excellency agreed with them that this act required revision. His Excellency, however, added, "that if there were one place in the wide world where the newspapers did as they thought fit, it was Melbourne." On Thursday he was waited upon by a deputation from the Chamber of Commerce, who directed his attention to the various improvements urgently required in the harbor. His Excellency attended a public dinner in the evening, in the *Royal Exchange* hotel, Collins street. The stewards of this dinner, in omitting the toast of the press, called down upon their heads the severest censure of the newspapers. The editors unanimously resolved to refrain from giving any report of the proceedings at the dinner; and the public, however much irritated at being deprived of the most acceptable news of the day, did not think the punishment altogether undeserved. On Friday his Excellency re-embarked on board the *Seahorse*, and took his departure for Sydney.

In the month of January, 1841, an accident occurred to a passenger steamer named the *Clonmel*, in her voyage from Sydney to Melbourne, which had no little influence upon the fortunes of now a very impor-

tant out-district of the colony. This ship left Sydney on Wednesday, the 30th December, 1840, and on the 2nd of January following struck on the beach near Corner Inlet. There were ninety passengers on board at the time, including Mr. Goodwin, of the firm of Hamilton and Goodwin, Elizabeth street; Mr. D. C. Simson, of the firm of Dutton, Simson, and Darlot; Mr. Walker, an extensive miller in Hobart Town; and various other persons engaged in the usual industrial pursuits of the colonies. A boat left the vessel with the intention of proceeding to Melbourne, and was fortunately perceived by Captain Lewis, harbor master, who was returning from the wreck of the *Isabella*, in the cutter *Sisters*. The circumstances which led to the wreck of the first-named vessel were never exactly ascertained; but it must have been an error in the compass. The *Clonmel* went ashore during a spring tide, and became imbedded in the sand at some distance from the outer edge of the sandspit. Several small vessels were despatched to Corner Inlet, and a regular communication by water was, by this means, established with that fertile district of Victoria. An association to settle this district was formed, containing the names of several influential stock-owners, and a vessel named the *Singapore* was chartered to convey the pioneers to the new country. The passage to Corner Inlet proved very tedious, and it was not until the 13th February that the vessel arrived. The passengers attempted to effect a landing on the north-west side of Corner Inlet, but were unable to accomplish this; and, after undergoing much fatigue, were under the necessity of abandoning the attempt. They effected a landing in another quarter, and travelled along the shore in quest of a desirable spot to form a settlement, until they came to the wreck of the *Clonmel*. They traced the channel, in boats, and explored the country, which was discovered to be very favorable for settlement. The party, which consisted of Dr. Stewart, Messrs. Rankin, Kirsopp, Broadrib, Orr, Kinghorne, McLeod, and MacFarlane, landed their stock, and formed an encampment. They had a very narrow escape from the aborigines, but were saved by the adroitness of their aboriginal guide, Charlie, who had previously attended Count Strzelecki, on his perilous journeys through the district. It is well known that this gentleman claims to have been the discoverer of

Gipps Land; but it is contested, and there is no doubt that Mr. MacMillan has, at least, an equal, if not a better, right to the honor of having opened up this territory. This seems to be the general impression, particularly in the locality, and amongst those best able to judge of the conflicting claims of the competitors. At a public dinner given to Mr. MacMillan, at Port Albert, in March, 1856, he gave the following account of circumstances attending the discovery:—"In February, 1839, I arrived at Carravong, Maneroo, having received instructions from Mr. M'Alister to look out for stations. I heard from the natives that there was to the south-west of Buchan (a place discovered by Mr. Bayliss) a fine country. I got Jemmy Gibber, chief of the Maneroo tribe, to obtain all the information he could from the old black, who affirmed he was once there; and on the 26th May, 1839, Jemmy volunteered to accompany me. I provided myself with arms, and also provisions for four weeks: in four days reached a hill, which I named Mount M'Leod, now called the Haystack, from the summit of which I had a bird's-eye view of the country lying between me and Corner Inlet, and of the long beach stretching to the south-west. My friend was beginning to get alarmed, and wished to return, but seeing me determined to proceed he threatened to leave me. On this night I was nearly paying dearly for placing so much confidence in my companion. Whilst lying at the camp-fire I was aroused by the circumstance of his raising his club to strike me. I had just time to present my pistol to his breast: he begged hard for his life, saying he dreamt a black fellow was taking away his *gin*, and he wanted to kill him. I was satisfied that he intended to kill me, and report that I had been killed by the blacks of the district. Next morning started for Omeo; arrived there in six days; it was a very rough journey; was more determined than ever to explore the country, and form a station as near to it as possible. While at Omeo gleaned the intelligence that Mr. Walter Mitchell, a nephew of Mr. M'Farlane, had been as far as Bruthen, but had discovered no country worth occupying. I then started for Clifton, the station of Mr. M'Alister, and received from that gentleman every encouragement to explore the country, and find my way to Corner Inlet. After many unsuccessful attempts, I again, on the 9th February, 1841, formed a party, with instructions from Mr.

M'Alister to abandon the country unless I could find a road to the Inlet; and we started from our station—which we had formed on the Avon—this time with the determination to accomplish it or die in the attempt. On the 10th crossed the Thompson, and the Glen-garry on the 11th; on the 14th discovered the Old Port, and marked a road from thence to the Plains. In May following came down from the Avon with a dray: great credit is due to the driver, James Lawrence, and, in fact, to all my companions, who, whenever an expedition was talked of, were always eager to accompany me. I am proud and happy to see one of them here present, who shared with me many hardships and privations. For sixteen months, during two years, we never slept on a bed, and were deprived of many comforts of life, even the luxury of a tent. In my expeditions I had no other guide than a pocket compass, and a copy of Flinder's chart of the coast. With regard to the natives, who at that time were numerous, I will mention that at first they were very terrified at the sight of white men; on one occasion some of them approached our party, and, as I dismounted to salute them, they all set up yelling, and ran away. Since then I have learnt that they imagined that the horse and rider were one. On another occasion, after saluting us by a shake of the hand, they conferred the same honor on the horse by shaking his bridle. After we had been at the station, which we formed on the Avon, some time, they attacked us in a body, compelling us to leave the district: we, however, by force of arms, again regained our station, and kept possession. Count Strzelecki, a Pole, has also claimed the discovery of Gipps Land, but I leave it to the public to decide. On the 7th of March, 1840, he called at my station, where he was supplied with provisions and a camp kettle. Mr. M'Alister went a day's journey with him; told him the name I gave the country (*Caledonia Australis*); and described where he might cross the rivers."

The Gipps Land district is one of the most fertile and salubrious in Victoria. It is secluded from the rest of the colony by gigantic granite ranges, which not only shelter it from the scorching winds, but give rise to many rivulets, which, flowing on to the sea, water and fertilize its plains. It is prized both as a pastoral and an agricultural district. As was well expressed by Dr. Hedly, the chair-

man of the dinner already mentioned, whose address was creditable to himself and the province:—"From our situation between those mountains and the sea, we enjoy a climate which I consider approaches more nearly to perfection than that of any spot of earth. Unchilled by severe frosts—sheltered from hot winds—knowing no dread of drought—the heat of the day followed invariably by cool refreshing nights—a climate to which not only no disease is to be ascribed, but which is calculated to retain the body in perfect health where no other disturbing cause is in action—a climate not only enabling a settler to endure the severe toil that must ever accompany the conversion of the forest into the farm, but fulfilling in the plenty of harvest the hopes with which he labored in seed-time."

Under the new regulations, which have already been referred to in this chapter,* the special survey system, which had, until 1841, been confined to South Australia, was incorporated with the land regulations of Port Phillip. A person paying £5,120 into the Treasury, might fix upon any portion of the unreserved territory,

* The following document, issued by the Land and Emigration Commissioners embody the instructions given to Sir George Gipps, under the royal signet and sign-manual, by the Imperial Government, for dividing the territory, and amending the land system:—

"1.—With a view to promoting settlement in the Australian Colonies, the following measures have been adopted under the sanction of Her Majesty's Government.

"2.—It has been determined that, for all purposes connected with the disposal of land, that portion of the territory of New South Wales which lies to the south of the counties of Murray and St. Vincent, and of the rivers Murrumbidgee and Murray, as far as the eastern boundary of South Australia, shall be separated from the rest of New South Wales, and be distinguished by the title of the Southern or Port Phillip District.

"3.—Within the Port Phillip District, land will henceforth be sold at the fixed uniform price of £1 per acre, in sections of one-half of a square mile, or 320 acres each.

"4.—Towns already laid out, and in which any land has actually been sold, will be exempt from the operation of the foregoing rule, and town lots in them continue to be sold by auction; and the government will also have the power, should it be deemed expedient, to reserve any sites for towns likely to become the seats of local administration, or any sites eminently adapted for commercial seaports. The formation of all other towns and villages, including, therefore, every inland town, except where the residence of a government may be established, will be left to the enterprise and judgment of individuals.

"5.—Certain lands, to be properly marked out in maps exhibited at the land office

and require the authorities to survey eight square miles, subject to the provisions as to extent of water frontage, and depth of back run. On the 8th of June of that year it was notified by his Excellency that eight special surveys, of the size indicated, had been applied for in the Port Phillip district; and it will show the high opinion that the colonists of that day had formed of Gipps Land, when it is mentioned that three out of the eight special surveys were applied for in that locality. The whole eight were applied for between the 17th March and the 1st May, 1841, and their boundaries were as follows:—

1.—F. W. Unwin, 5120 acres, county of Bourke, parish of Bulleen; bounded on the north by the Yarra Yarra river; on the west by portion No. 1, containing 1019 acres; on the south by Koonung Koonung Creek; and on the east by a line bearing north from the said creek to the river.

in the colony, will be set apart for roads, and other public purposes, and will be regarded as inalienable public property. But it is not intended, unless in very special and rare cases, to make any reservation of minerals; and all deeds of grant, therefore, will convey to the purchaser everything above, and everything below, the surface.

“6.—Purchasers in the colony must buy their lands at the office for Crown lands in the district of Port Phillip.

“7. Purchasers in England will have to deposit their purchase money with Mr. Barnard, the Crown agent for the colony, No. 2, Parliament street, from whom they will obtain a receipt, on the production of which at the office of the Colonial Land and Emigration Commissioners, No. 9, Park street, Westminster, they will be furnished with an order, stating the number of acres which they have purchased, and directing that this quantity shall be granted to them upon their naming in the Colony the spot of unappropriated land which they shall select.

“8. The charts and registers to be kept in the Land Office at Melbourne are intended to furnish full and authentic information of all appropriations of land, and of all surveyed lands not appropriated, and of all portions of land reserved for public purposes. And each purchaser will be allowed to select his land in order of his application at that office.

“9. Any one who shall pay in this country, or in the colony, the price for eight square miles, or £5,120, will not be confined to the districts already surveyed and opened for sale, but will have the privilege of demanding a special survey of the land he is desirous to acquire. This land, however, must be taken in one block, of which only the outer boundaries, therefore, will be surveyed. It will also be subject to all regulations which may be established in the colony, respecting the proportion of front to depth, water frontage, reserves for roads, and other conditions of similar nature.

2.—H. Dendy, 5120 acres, county of Bourke; bounded on the west by the sea-coast of the Port Phillip Bay; on the north by the five-mile Melbourne reserve, and on the east and south by lines to include the quantity.

3.—W. Rutledge, 5120 acres, on Powlett and Green's runs, near the Sydney road; bounded on one side by a creek, and on all others by lines to include the quantity.

4.—J. Orr, 5120 acres, about fourteen miles from Corner Inlet, on the east bank of the River Albert, to include the quantity.

5.—W. Rutledge, 5120 acres, near Corner Inlet; bounded on the west by the river known as the Albert by the gentlemen who have lately explored the Gipps Land country.

6.—H. Jamieson, 5120 acres, between Mount Martha and Arthur's Seat, including Hobson's Flats; bounded on the west by Port Phillip Bay, and on all other sides by lines to include the area.

7.—H. Elgar, 5120 acres, county of Bourke, partly in the parish of Boroondara; bounded on the north by Koonung Koonung Creek;

"10.—Every purchaser will be entitled to name a number of persons of the laboring class for a free passage to the colony, in proportion to the amount of purchase money which he has paid in this country, viz.—For every £20, one adult person of fourteen and upwards, or two children between seven and fourteen, or three children under seven. The whole must be subject to the approval of the commissioners, and fall within their general regulations on this subject, of which a copy will be furnished to any person requiring them.

"11.—Persons who may wish to avail themselves of the above advantage will be required to send into this office lists of the names and descriptions of the people they propose for a free passage within six months of the date of their purchase, after which time no further claim to any nomination for a free passage will be admitted. Purchasers of special surveys will be allowed eighteen months.

"12.—In the older parts of New South Wales, constituting what will henceforward be called the Sydney district, land continues to be sold at 12s. per acre, in lots of 640 acres, or one square mile.

"13.—Should any persons, intending to purchase land in this portion of New South Wales, think proper to deposit money in this country in the mode above mentioned, he will receive from the Land and Emigration Commissioners an order entitling him to credit for a corresponding sum in the acquisition of land at the public sales in the colony, and he will be allowed to nominate emigrants for conveyance to Sydney, under the same rules and regulations, as above referred to, for the district of Port Phillip.

"By order of the Board,

"S. WALCOTT, Secretary."

on the west by the section line which divides portions Nos. 2 and 3 from portion 1, in the parish of Bulleen; on the east by the section line which divides portion No. 4 from portion 5, in the parish of Bulleen; and on the south by a line to include the quantity.

8.—J. Reeve, 5102 acres, near Corner Inlet, situated on the east bank of the Yarra.

The various localities where those special surveys were situated are, even at the present day, the chief sources of agricultural production in Victoria. Unwin's survey at Bulleen, Dendy's at Brighton, Elgar's at Boroondara, and Rutledge's at Kilmore, are all densely settled; and the like may be said of Atkinson's at Port Fairy, and various other surveys taken up after this date. The success which has attended the efforts of capitalists to open up and civilize the country demonstrate, too clearly, the infamous policy of the Government in keeping the lands of the colony shut up among a few monopolists, to the injury of the whole nation, whose property they are.

CHAPTER VII.

Classification of the various races of Men.—The Australian race.—The aboriginal natives of Victoria.—Attempts to civilize them have invariably failed.—Right of civilized nations to occupy regions only held by erratic tribes.—The Protectorate of Port Phillip.—Difficulties experienced by the early colonists in dealing with the natives.—Outrages perpetrated by the two races against each other at this period of the history of the Colony.

LINNÆUS divided the human family into five races:—the *American*, the *European*, the *Asiatic*, the *African*, and the men of *preternatural formation*. The Count de Buffon proposed six divisions;—1. The *Hyperborean*; 2. The *Tartar*; 3. The *Southern Asiatic*; 4. The *European*; 5. The *Ethiopian*; 6. The *American*. This arrangement, slightly altered, was adopted by Professor Blumenbach. Cuvier reduced this number to three only, the *Caucasian*, *Mongolian*, and *Ethiopian*; but was undecided whether to refer to either of these the Australians and South Sea Islanders. Dr. Pickering says, he has seen, in all, eleven races of

men:—1. *Arabian*; 2. *Abyssinian*; 3. *Mongolian*; 4. *Hottentot*; 5. *Malay*; 6. *Papuan*; 7. *Negrillo*; 8. *Indian or Telingan*; 9. *Ethiopian*; 10. *Australian*; 11. *Negro*. He thus describes the tenth race: "Negro features, but combined with straight or flowing hair." He further says, "The Australian may be characterised, in general terms, as having the complexion and features of the negro, with hair in place of wool. On closer examination, however, other points of diversity are remarked; and I think it will be generally found that the forehead does not recede as in the negro, an unusually deep sunk eye giving it rather the appearance of projecting. The eye, at the same time, though uniformly small, is uncommonly piercing. With regard to other races, somewhat approximating in personal appearance, the genuine hair will at all times distinguish the Australian."

"Strange as it may appear," says the same author, "I would refer to an Australian as the finest model of the human proportions I have ever met with in muscular development, combining perfect symmetry, activity, and strength; while his head might have compared with an antique bust of a philosopher."* The aborigine of the Australian continent has been usually elassed with the negro, but those acquainted with both would not fall into such a mistake." Dr. Pickering says that, an hour after he landed in Sydney, "he met an aboriginal in the street wearing the European costume, but who was instantly recognised; and this simple example seemed to dispel all danger of subsequently confounding the Australian with any other race of men." It is unnecessary to inquire into the origin of this race, which, indeed, cannot be accurately ascertained. The various tribes are utterly destitute of any sagas or traditions which might serve to direct the inquirer. According to an official return of the Legislative Council of New South Wales, the aboriginal natives in the Colony of Victoria, when first settled, numbered 6,000; they were scattered about the country in groups or tribes, and appeared to exercise a kind of rude sovereignty over the country they occupied. They hunted and fished, and dug up such roots as were fit for human food. Any intrusion upon the territory of a particular tribe was a *casus belli*, and was resisted by violence. There

* *The Races of Men*, by Dr. Charles Pickering.

is no doubt that many murderous conflicts took place between the different tribes, which served materially to reduce their numbers. The return before-mentioned gives the number in each district a few years after the colony—then the district of Port Phillip—was settled. In Grant there were 200; Belfast and Normanby, 300; Yarra and Western Port, 165; Upper Goulburn and Campaspe, 302; Lower Goulburn, 200; country north and west of Goulburn, 350; River Loddon, 670; Western Port, 1,000; Portland Bay, 3,000; Murray district, 200; Gipps Land, 1,000.

The explorers who first came in contact with these untutored children of nature, with one exception, have described them as treacherous and cruel. Degraded and ignorant as they were found by the whites, contact with a civilized people has rendered them more abject and wicked. The worst habits and vices of civilization have been adopted; and the semi-civilized tribes are far more deserving of pity than the wild free aborigines of the interior, who possess the virtues as well as the vices of savages.

The British Government, anxious to preserve the aborigines from ill-treatment, about 1838 established a Protectorate in Port Phillip. The chief protector was Mr. G. A. Robinson, who had been employed in bringing the surviving remnant of the Tasmanian aborigines together in 1835, and in transferring them to Flinder's Island; he had an office in Melbourne, and the general superintendence of the department devolved upon him. There were a number of assistant protectors, who were both able and zealous; amongst whom the names of Messrs. Thomas Dredge, Le Souef, and Parker are prominent. Unfortunately, some mismanagement on the part of the Government led to the ultimate abolition of the department in a few years; and the colonists, who, generally, were disposed to be antagonistic to it, were by no means displeased at this result. Lord Glenelg had retired from the direction of the colonial office of the empire, and been succeeded by Earl Derby (then Lord Stanley), who expressed an equal interest with his predecessor in the aboriginal natives. His Lordship was unwilling to admit that the Protectorate was a failure, and that nothing could be done for them. "I cannot," said his Lordship, "acquiesce in the theory that the aborigines are incapable of improvement, and

that their extinction before the white settlers is a necessity which it is impossible to control." The cost of the Protectorate, up to the period when it was reduced to a single protector, in 1845, was £40,000. A Wesleyan school at Buntingdale, under the superintendence of the Rev. Mr. Tuckfield, cost the Government a further sum of £4,538 8s. 9d. All the missions to the Australian aborigines have failed, and Buntingdale formed no exception to the general rule. The superintendent was zealous and energetic, and had high hopes of ultimate success; he devoted his attention to one tribe; and both the physical and meral requirements of those belonging to it were sedulously cared for, and a strong effort was made to form them into a civilized community.* For a long time Mr. Tuckfield appeared likely to be successful, but after he had educated a number of children, and trained them, as he thought, up to be useful members of civilized society, they deserted the station, throwing away the garments of civilized life, and resuming the kangaroo-skin rug with the utmost satisfaction. A school, formed by the Baptist congregations of Melbourne, on the Merri Creek, and liberally supported by all denominations, had no better success. The children were taught the usual elementary branches of knowledge, and in a public exhibition, in the Scots' Church of Melbourne, delighted the public by their reading and singing. The complete success of this seminary was at that time considered certain, and great credit was awarded to Mr. Peacock, the teacher, for the manner in which he had brought forward the aboriginal children. The result demonstrated that those hopes were fallacious, for when the children grew up they deserted the school for the bush, returning to their own tribes. A mission established by the Moravians, at a later period, was equally unsuccessful; and it is much to be feared that the hope, fondly cherished, of civilizing or reclaiming the native aboriginal tribes may be abandoned. The Government is bound to supply the physical wants of the few wretched remnants still wandering about the plains and forests of the interior. The game that they now obtain is limited, and, without sufficient assistance be

* The tribe inhabited the borders of Lake Colac, and was named the Coladjin tribe.

rendered, they must often die of hunger. It was fortunate for the first settlers that the aborigines were so low in the scale of humanity that they were unable to offer any effective resistance to the intrusion of a superior race amongst them. They seldom resisted the whites; and when they attacked them it was with the spear and war-club, but poor weapons with which to attack men who had firearms to defend themselves.

The question has often been asked, what is to be the fate of the aboriginal natives of Australia? Can they be civilized, Christianized, and made the recipients of political privileges? We fear that experience will not allow us to hope for such a triumph. The transition from rude barbarism to civilization is seldom accomplished; and when a superior race intrudes on savage tribes the latter are slowly exterminated by war, famine, and disease. The moral right of civilized nations to occupy such countries as had previously been only used by a few nomadic tribes seems never to have been questioned. The aborigines of Australia had no property in the soil in the shape of improvements—the labor of their own hands. Priority of occupation gave them a right to the game on the land, but it conferred no right to hold the country against a civilized nation who could turn it to better account. Since the times of Cabot, *discovery* has been held to give a title to regions inhabited only by savages. The nation that discovered has never scrupled to occupy; and this seems only according to natural justice; as it never could be intended by a wise providence that fine continents, capable of maintaining millions of inhabitants in comfort, should be abandoned to the support of a few savages without a habitation, or a foot of land in cultivation. Civilization, however, has always brought ruin on the poor aborigines, who quickly waste away before it. The aboriginal natives of Victoria form no exception to the general rule, and in a few years they will have disappeared, and the rise, progress, and various migrations of the rude societies who inhabited the fertile plains of this country will be buried in deep oblivion. No right-thinking mind, however, can regard the extermination of a whole race without the deepest commiseration, or help regretting the blighting and desolating effect of the presence of our countrymen on the black men. Hard, indeed, is their fate,

and one of the darkest enigmas of life lies in the ruin wrought by the presence of a Christian nation amongst them. It is the duty of our Government to do every thing in its power for the poor aborigines ; their moral as well as their physical condition ought to be attended to, and the nation should still use the means both to civilize and to convert them.

After the Supreme Court had been opened in Melbourne, a considerable portion of Mr. Justice Willis' time was occupied in hearing trials connected with the various collisions which were said to have taken place between the colonists and aborigines. The case which attracted the greatest degree of attention, from the standing of the accused, was heard in December, 1841. Sandford George Bolden, Esq., was indicted for feloniously shooting at an aboriginal, named Takere, with intent to kill him, on the 27th October of that year. The accused, and his brothers, were amongst the most respectable of the early colonists ; Takere, the aboriginal native killed, had attacked Mr. Bolden when mustering his stock, and, after some skirmishing, was shot by that gentleman. Mr. Sievwright, the assistant protector for the Western District, brought the case forward against him. In his charge to the jury Judge Willis said :—" I have no hesitation to say that, if a person has a run, for which he pays a license, and a man or any persons come to that run, the owner or lessee has a right to use every lawful means to recover any property that may be attempted to be carried away. I care not whether they are white or black—I may turn them off my property. I will go further : if Government take upon themselves to assume the ownership of the soil, the lessees have a right to look to them for a sufficient guarantee of their property, and they have a clear and distinct right to turn any person off their property that may come on it for the purpose of aggression or not." There could be little doubt of the result on the minds of the jury after this address, and Mr. Bolden was acquitted. Mr. Manton, one of the twelve, rose, and requested to state, on behalf of the jury, that Mr. Bolden left the bar without the slightest stain on his character. The judge asked if this was the unanimous opinion of the jury. Several of them objected to Mr. Manton putting forward any such statement.

A few days after this trial Robert Timmy, Jimmy Smallboy, Jack

Napoleon Tarraparraura, Lallah Rookh Truganini, Fanny Waterfordea, and Maria Matilda Natopolina, were indicted for the wilful murder of William Cook, and a man named Yankey, at Western Port, on the 6th October, 1841. It appeared that the two men who were shot were whalers, and the male aborigines mistook them for settlers in the neighborhood, with whom they were on bad terms. The prisoner, familiarly known as "Bob," had been with Mr. Langhorne in several overland expeditions, and had, upon one occasion, saved that gentleman's life. Mr. Justice Willis, in summing up, stated "That the rule upon which the jury should act was, that where there was a preponderance of evidence so great as to admit of no dispute, to give a verdict; where there was any reasonable doubt—but it should be a reasonable doubt—then the prisoners should always have the advantage of it. What he said the other day, when the case of Mr. Boldon was tried, he repeated, that it was justifiable for settlers to remove, by all lawful means, both blacks and whites, from their runs. Permitting the blacks to remain on the runs was a spurious humanity, putting temptation in their way, which led to all those ill-feelings and aggressions, which never would occur while the parties were confined to their respective limits." At the present period the philanthropist would very likely censure the judge for his severity. The aborigines were not ordinary intruders; the country had belonged solely to them, and it was difficult to inform their minds of those rights which Great Britain claimed over their country. The sentiments of Justice Willis were far from unpopular at that period, as not a few whites had fallen victims to the excited natives, and the life of every settler in the colony was insecure. The male prisoners were found guilty, and sentence of death was pronounced on them. Nearly at the same time the party of Robinson, travelling along the edge of the Murray with stock, was fiercely attacked by three hundred natives, and it was not until after a hard struggle, in which forty were killed, that the party managed to repulse them. From Gipps Land, and all the outlying districts, news was arriving of aboriginal aggressions, and the white population, not very numerous at this period, began to dread a general attack and attempted massacre. Bob and Jack were executed near where the Hospital

now stands, and a large number of natives witnessed the spectacle, which, by the way, was very sickening. Jack was sullen and silent; but Bob was in a fearful state, and his groans and cries were heartrending. Not long after this event a young gentleman, named Alexander Moffatt Allen, was speared by the blacks, and only survived a few minutes. In the month of March, 1842, a memorial, from the settlers and inhabitants of Port Fairy, was presented to his Honor the Superintendent, setting forth the great insecurity of life and property from the want of protection against the natives. To this document was attached a list of twenty-five outrages, recently perpetrated in that quarter. His Honor replied by a letter, which displayed considerable literary ability; he accused the settlers of the district of committing outrages upon the aborigines of a very cruel character. It is but justice, however, to state that the colonists implicated replied to this charge, which they asserted had been got up by a gentleman who then held office as an assistant protector. A dreadful crime had, however, been perpetrated in February, 1842, on the edge of a scrub, called Yan Yan Derrick, near Lake Colac, on the station of Messrs. Smith and Osbrey; when three aboriginal women and a child were shot dead, and several severely wounded by an armed band of white men. In the month of May three persons were committed by the police magistrate at Melbourne to take their trial for this outrage—Henry Richard Hill, the superintendent upon the station where the event occurred, and two other persons, named Joseph Bates and John Beswick. Two witnesses appeared against them, named McGuineas and Arabin. These men swore that, on the 24th February of that year, they were dressing sheep at Muston's Creek, when Joseph Bates came to them and asked for a gun, stating that he wished to shoot some old men kangaroos; he obtained the gun, and joined the other prisoners in a hut close by. The party, fully armed, started on horseback. One of the witnesses, McGuineas, wishing to obtain a kangaroo skin, followed with dogs, but had only proceeded three-quarters of a mile when he came to a thick scrub, where he heard two shots fired, and saw a black running, pursued by a horseman. He then heard six shots fired, and a scampering about the scrub. Immediately after the return of

McGuineas to his companions the party returned, bearing boomerangs, shields, and other implements belonging to the natives. The three prisoners were tried in the Supreme Court, Melbourne, on the 31st July, 1843, before Mr. Justice Jeffcott, and a common jury, of which Mr. John Hawdon was foreman. The evidence of the main witness, McGuineas, was conclusive against them; and it was, to a certain extent, corroborated by the other witness for the Crown, Arabin. On the other hand, the character of the first witness was bad; and a reward had been offered for the discovery of the murderers, to be paid on their conviction. The testimony of Arabin was also shaken by various contradictions and inaccuracies; the prisoners therefore received the benefit of these doubts, and were acquitted. The judge who tried them, however, stated that had they been convicted no interest would have saved them from the gallows; and this statement from the judicial bench had a great influence upon the public mind, and no atrocities of a similar character were afterwards perpetrated by the settlers of Port Phillip. The natives continued to be very troublesome, and a considerable number were apprehended upon various charges against life and property. On the 16th September, 1843, Billy Billy was brought before Mr. Justice Jeffcott, charged with stealing 30 ewes, 30 sheep, and 30 lambs, the property of Benjamin Boyd. An issue was tried, by direction of the learned judge, of "Whether the prisoner at the bar was of sufficient mental capacity to understand the course of proceedings so as to make a proper defence, to challenge any juror he might wish to object to, and to comprehend the details of the evidence." The jury, after hearing evidence, returned a verdict; through their foreman,* "that the prisoner was not of sufficient mental capacity to comprehend the nature of the proceedings," accompanied with an opinion "that the system of treating the aborigines as British subjects, and making them amenable to the forms of British law, was a mockery, for, not being able to comprehend them, they escaped the punishment which was their due. A considerable number of aborigines were tried with exactly the same result; the prisoners, being unable to understand

* Mr. William Kerr, editor of the *Patriot*, and at that time an Alderman of the City.

the nature of the proceedings, were discharged, and there the matter ended.

A murder was perpetrated by the aborigines on the 23rd of August, 1846, under circumstances of unwonted barbarity. The victim was a young settler, of considerable promise, named Andrew Beveridge, who, with his brother, occupied a tract of country on the bank of the Lower Murray.

From the evidence of two men named Kelly and Ryan, who were present, it appeared that six of the natives had remained on the station during the night of the 22nd, and that, on the morning of the 23rd, while at breakfast, some of them "cooied," and Mr. Beveridge went out. Two black men, named Bobby and Ptolemy, had their spears in their hands, which they threw at Mr. Beveridge, who immediately retreated towards the hut; one of the spears had entered his body about six inches, and the unfortunate young man almost instantly expired. The two men, Kelly and Ryan, got on their horses in the confusion and rode away. The murderers were afterwards captured by three of the Western Port Border Police, assisted by Messrs. Kirby, French, and Mr. Beveridge, the brother of the murdered gentleman. The police, disguised as bushmen, proceeded to Mr. Coghill's station, and concealed their arms from observation in a hut. The blacks were camped on the opposite side of the Murray, but were very shy and afraid of policemen. The troopers represented themselves as white men looking for a run, and offered to pay the blacks if they would cut bark for building purposes. The hut had a yard with a pallisade in front; a large fire was made within it, and an enormous pot placed on it; the blacks were invited to dine on a pudding made of flour, sugar, and water, which was being made ready. The police got six plates out, and informed the tribe that only six black fellows could enter the yard at one time; they took care that the three murderers of Mr. Beveridge should dine in one party, and, after great difficulty, they managed to rush upon the party suddenly and to throw strong cords round the necks of Bobby, Bullet-eye, and Ptolemy, and in this manner pinned them to the ground. The rest of the blacks dashed across the river, yelling fearfully; and such were the frantic efforts of the prisoners to get clear, that they dragged their

captors over the pallisade, and it was only by force of arms that they were at length finally secured, and carried into the hut. The police, aware of the hazard they ran from the general attack which would inevitably be made on the hut, despatched mounted messengers to the two adjoining stations for aid. The reinforcements received before night-fall only amounted to three men, who came in from Mr. Beveridge's station; so that there were only eight individuals to man the little fortress which had to withstand the onset of the most daring and blood-thirsty tribe in the colony, or, perhaps, in the whole Australian continent. The garrison were on the alert all night, but the attack did not commence until just before daybreak. The blacks mustered on the bank of the river, and took up a strong position in the scrub; an advanced body of about seventy picked men came on immediately to attack the hut; just as the first faint streaks of daylight began to glimmer in the horizon they marched forward with silent tread, until they perceived that they were observed, when they gave forth the most savage and hideous yells, and sprang like tigers on the hut, clearing the pallisade at a bound, and sending their spears against it with such force that they went half-way through the slabs, and penetrated the doors and shutters, wounding Johnston, the sergeant of police, who had the command. The defenders were momentarily paralysed by the sudden energy of the attack, but soon recovered their coolness, and fired a volley from various apertures in the walls of their little fortress; and the leader of the attack, "Dick, the Needle," as he was called, a chief of the Murumbidgee tribe, fell dead with a convulsive spring. Still the attack continued, the blacks endeavoring to unroof the hut, and force an entrance by that means, and the besieged defending this part as the most vulnerable point. The cool resolution of the Europeans checked the violence of the onset, and the party of aborigines retreated to their friends on the bank of the river. It was now broad daylight, and the garrison were calmly awaiting a second attack; they had heavy anticipations, it may be well supposed, for they would have to meet a fresh column of enemies, while they were exhausted with the previous struggle. Assistance, however, was at hand, and, before any farther injury could be inflicted, a party of armed horsemen, who had galloped seventy-five miles to aid them,

reached the scene, and changed the aspect of affairs very quickly. The aborigines had to retreat, and the police, assisted by a strong body of civilians, set forth with the prisoners for Melbourne. It is but right to state that one of the party who defended the hut was severely wounded in the hand by his own pistol, which accidentally went off in the affray, and he lost the use of the injured limb. The Government were petitioned to assist this unfortunate gentleman, and gave him the very inadequate sum of fifty pounds as compensation.

The prisoners were brought to trial at Melbourne, and the usual defence was attempted to be made on their behalf—that they were not sufficiently acquainted with the proceedings. After some delay, however, parties were obtained who could interpret to all the three, and, the evidence being conclusive against Bobby and Ptolemy, they were convicted and sentenced to death. There was no evidence to implicate Bullet-eye, and he was discharged.

The huge, dreary mass of dark stone which looms on the rising ground in the rear of the Hospital and Courthouse has, during the brief period that it has been in use as the receptacle of criminals, witnessed many sad and shocking spectacles ; but it is questionable if ever a more afflicting drama has been enacted within its gloomy portals than that of the 30th April, 1847. The unfortunate murderers of Mr. Beveridge, Bobby and Ptolemy, were led forth, neatly clad in duck frocks and trowsers, attended by the Rev. A. C. Thompson, rector of St. James's Church, Mr. Protector Thomas, Mr. French, and various other persons interested in them. They were sensible of their awful position, and the powerful working of their feelings was fully exhibited by the twitching of the muscles of their faces during the time that the prayers usual upon such occasions were read. When they were pinioned their feelings overpowered them, and they cried and sobbed in a manner most painful to witness. As the two sable denizens of the far-off forests emerged from the gloomy corridor of the gaol into the open air the sun shone forth on their upturned countenances with uncontrollable splendor. In a scene, strange, new, and terrible,—haunted by the fear of a terrible death, and shut up, as they had been, for many months from the blessed light of heaven, they looked on the glorious orb for a

moment, and their faces lightened up as if they had met a dear friend. No doubt their thoughts wandered to their hunting grounds and mia-mias on the Murray, to their relations and companions, and, for that instant, they heeded not the terrible engine which was now in full view. It seemed a happy, but, alas! a brief moment. The terrible reality of the actual scene again presented itself; they gave a dread shudder, and, with a quiet, subdued air, awaited their terrible doom. Ptolemy died almost instantaneously, but Bobby struggled for a considerable time, having broken his fall by standing with one foot off the platform.

Britain established the Protectorate with the excellent intention of preventing the white race from oppressing or injuring the aboriginal natives.* She spent something like sixty thousand pounds in the experiment, which proved a failure. This spasmodic effort to civilize and protect the black man was attended with no result. It was a grave error. The Government appointed men invested with civil power to protect the natives, and they, in many cases, came into contact with the Europeans who were colonizing and settling in the country. Disputes arose, and the protectors, in not a few instances, became spys on the actions of the settlers. The protectorate did not join cordially and in a generous spirit with the people to ameliorate the condition of the aborigines; it assumed an antagonistic position, and, becoming intolerable to all classes, was abandoned as an acknowledged failure. The Government ought † to have liberally supplied the wants of the aborigines by giving them food when hungry and unable to procure it; it ought farther to have employed Christian missionaries to labor in the bush, endeavoring to

* The British Government and private individuals have exhibited a considerable interest in the Australian natives. When the author of this history was editor of the *Port Phillip Gazette* he received a communication from the British Association for the Promotion of Science, requesting him to reply to a long list of questions (drawn up by a committee) having reference to the moral and social condition of this race. He endeavored to obtain the necessary information, and was promised it from one or two gentlemen who were protectors of aborigines, but it has not yet come to hand.

† The author makes use of the past tense, but he thinks that even now the plan might be pursued with advantage in dealing with those of the aborigines who still remain.

convert the blacks and to maintain a brotherly feeling between them and the legitimate colonists.

CHAPTER VIII.

THE Emigration of 1841, and expansion of the colony—Representative Institutions introduced—The popular party in New South Wales antagonistic to Port Phillip—General Election of 1843—The Contest for Melbourne, and the Riots which took place on the occasion—The Melbourne Corporation inaugurated—The suspension of Mr. Justice Willis, and the public indignation against Sir George Gipps—Character of Mr. Willis—The Financial Crisis, and general distress of all classes at this period—Boiling down for tallow adopted with success—Overtrading and recklessness amongst the commercial classes—The affairs of Watson and Hunter—Meeting of the Legislative Council at Sydney—Dr. Lang's motion for Separation—Public Meeting at Port Phillip, and resolution in favor of Separation—The Inundations of 1844 and 1849—Property of Port Phillip.

THE district of Port Phillip received a large accession of population direct from Great Britain in 1841 and 1842; and many,* who have been most successful settlers, landed at this time with little or no capital, except stout hearts and strong arms. The progress of Port Phillip, from this period up to the reflux consequent upon the cessation of immigration, was almost magical. The grazing lands were gradually taken up for stock; the cultivation of the soil occupied a considerable share of the attention of the colonists; and the commercial interests of the district now began to expand into considerable importance. The colony of New South Wales had, up to this period, been almost entirely governed upon the bureaucratic principle. The act 9 George IV., c. 83, which

* In 1841 there was a great influx of free immigrants into New South Wales. The large sum of £327,106 2s. 10d., accruing from land sales, was expended in bringing over from the mother country 19,523 emigrants. From the report of the Immigration Agent for that year, it appears that of this number 9,750 were males, and 9,773 females; that 11,757 landed at Sydney, and 7,776 disembarked at Port Phillip; that 13,344 were from Ireland; 4,563 from England; and 1,616 from Scotland; that 10,009 were Protestants; 9,476 were Roman Catholics; 37 Jews, and of no religion; that 8,643 could read and write; 2,961 could read; and 3,178 could neither read nor write.

provided for the appointment of a Council for both that colony and Van Diemen's Land, to consist of persons resident in the said colonies, and to be nominated by the Crown, had, it is true, been in operation since 1829; but the people did not view these bodies with much favor; and they in no way represented public opinion. The new Act, 5 and 6 Victoria, c. 76, which came into operation in 1843, provided that in New South Wales there should be a Legislative Council, to consist of thirty-six members; twenty-four to be elected by the colonists, and twelve to be nominated by the Crown. The Governor, with the advice and consent of this body, had authority to make laws for the peace, welfare, and good government of the colony, provided that they were not repugnant to the laws of England. The whole management of the crown lands, and the revenues derived from them, continued still under the sole control of the Crown. It was provided by the new act that the inhabitants of every county of New South Wales, or such divisions or districts as the Governor should see fit, should be incorporated, and that councils should be established in every such district for the local government thereof. The town of Melbourne and city of Sydney were incorporated by act of Council in 1842, so that the people were called upon, nearly at the same moment, to elect both legislative and municipal representatives. The district of Port Phillip was allowed six members, as its proportion in a council composed of thirty-six. It would have been well for the people if they had refused this sham representation, which, instead of being of the slightest benefit, became actually the reverse, as the northern district now plundered Port Phillip with her own apparent consent. There were not persons, at this time, with leisure and wealth sufficient to permit them to proceed to Sydney to undertake the duties of representatives; and, even if six such men had been at hand—forming but a small minority—they could have done little real good, as there was a large and powerful hostile majority. There were not a few who perceived this before the general election; but their voices were overpowered by the majority, who appeared to be carried away by the idea of having the district represented, and who hoped that a popular legislature would do every part of the colony equal justice—that the oppression of the Port Phillip district had been the consequence of

an ill-feeling on the part of the Governor and aristocracy of Sydney—and that the popular feeling was in favor of equal rights for both divisions, and of the axiom that it was only fair that the revenues of Port Phillip should be applied for the uses of Port Phillip. No sooner had the Council met and began to enter on the business of the country, than it became apparent that the liberal, or popular, representatives, as they were termed, were quite as much against every effort to grant Port Phillip the benefit of her own revenues as the old nominees; indeed, in this particular men of all shades of opinion were wonderfully unanimous, and the six members for Port Phillip were a small and insignificant minority.

The general election for the Legislative Council, upon the popular basis, took place in June, 1843. The Mayor of Melbourne, Henry Condell, Esq., was returned for the town; and Messrs. Ebdon, Walker, Nicholson, Thompson, and Lang, for the district.* Sir Thomas Mitchell, who, as the discoverer of the country, had a very considerable claim upon the people, was not returned; but this was because he made no personal effort, and that—holding the appointment of Surveyor-General at the period—the people feared that he would support the government of Sydney, which was just then unpopular. There was no excitement in reference to the district election, but, unfortunately, party feeling ran to a considerable height in Melbourne, where the contest became one of a religious rather than a political character. Mr. Condell was opposed by Mr. Edward Curr, a Roman Catholic, of very considerable experience, and who had held a respectable position in the adjoining colony of Van Diemen's Land. The return of Mr. Curr was, until the last moment, considered certain, as he had, in the early part of the contest, the good wishes of a large majority of the intelligent and respectable classes of the community; and it did not seem likely that he would be opposed by the mayor or any person of character. The unguarded remarks, however, that he made use of in public, and the violence of his adherents, excited so great an opposition to him, that, when the suffrages of the citizens were taken, he was rejected by a narrow majority.† The mob, who

* The following was the result of the poll for the district:—C. H. Ebdon, Esq., 228; Thomas Walker, Esq., 217; Dr. Nicholson, 206; Dr. Thompson, 184; Dr. Lang, 166; Sir Thomas Mitchell, 157.

† The state of the poll was:—H. Condell, Esq., 295; E. Curr, Esq., 261.

appeared perfectly frantic at this result, became clamorous, and refused to disperse. The riot act was read by the police magistrate, and a violent effort made by the troopers on duty to disperse an assemblage who occupied the space of ground in front of the hustings, close to the Mechanics' Institution, where the Town Hall now stands. After nightfall parties of about two hundred paraded the streets, breaking the windows of such citizens as had made themselves most conspicuous in supporting Mr. Condell. The premises of a respectable and brave citizen named Thomas Green, then carrying on business in Elizabeth street, opposite the Post Office, were most violently assaulted, and every effort made to burst the doors. Mr. Green kept the mob at bay, and, in the scuffle, two men were severely wounded. It seemed impossible to say how far this riot might have proceeded, but a detachment of the 80th regiment, under Captain Lewis, appeared on the scene of action, and, with the assistance of the police, succeeded in clearing the streets of the rioters. From this conflict may be dated the beginning of those religious feuds which so long disturbed the peace of Melbourne, and which have been regretted by respectable and intelligent colonists of every creed and country.

The colony received the benefit of municipal representation at this time. On the first day of December, 1842, the Melbourne Corporation was inaugurated. The town had been divided into four wards, and the citizens were now called on to elect councillors.* On the ninth of the same month the new Town Council met, and elected their dignitaries.

The tenth of December was named Lord Mayor's Day, and the Council walked in procession from the Council Chamber, in Collins

* In LaTrobe Ward there was a contest, and the poll was as follows:—Russell, 98; Campbell, 88; James, 72; Cumming, 66; Peers, 46; Heape, 40.

In Bourke Ward there was no contest, and the numbers who polled for the only three candidates were as follows:—Smith, 76; Patterson, 63; Kerr, 56.

In Lonsdale Ward there was one more candidate than the number required. Orr, 136; Mortimer, 93; Fawkner, 93; Clark, 46.

The polling in Gipps Ward was for Condell, 71; Dickson, 65; Beaver, 64; Dobson, 46.

The following were the first mayor and aldermen: mayor, Henry Condell, Esq.; aldermen for six years, Henry Condell and Andrew Russell, Esqrs.; aldermen for three years, H. W. Mortimer and William Kerr, Esqrs.

street, to the temporary Court House, in King street, near its intersection with Bourke street, and were ushered into the presence of the Resident Judge, who administered the usual oaths to his worship the Mayor. The Judge addressed the Council in a neat speech, and entertained the members afterwards in his private apartment in a suitable manner. The civic authorities next proceeded to wait upon the Superintendent at the Government Office, which was at that time in Mr. Batman's house, on Batman's Hill. Suitable compliments were addressed by the Council to his Honor, who, in reply, expressed his good wishes towards the Town Council of Melbourne. The Corporation was of material benefit to the city during the first phase of its existence, but there was a great error in its constitution, which, to some extent, destroyed its usefulness, viz., the election of the mayor and aldermen by the Council instead of by the people. This encouraged a considerable amount of nepotism and corruption which would otherwise have been avoided. It has, however, been a far more efficient institution than the corporation of Sydney, which became so corrupt that it had to be abolished.

On the 24th of June, 1843, an event occurred which tended still farther to increase the excitement of party feeling. On that day Judge Willis took his seat on the bench, as usual, but had hardly commenced the business of the Supreme Court when a letter was placed in his hands, from his Excellency the Governor, containing his suspension from the office of Resident Judge of Port Phillip. The people generally were in favor of the Judge, but the majority of the magistrates and gentlemen were opposed to him, and the most ill-natured reports were spread in reference to his character and former career. He left documents in the hands of his friends, which appeared in the *Port Phillip Gazette* of 15th July, 1843, which completely disproved all those acrimonious assertions and rancorous inuendoes. There is no doubt that Mr. Justice Willis misunderstood his position, and used very objectionable and arbitrary language towards respectable colonists from the bench; he was, however, thoroughly honest, and anxious to expose anything like knavery in either the highest or lowest circles. He allowed his prejudices in many instances to overcome his judgment, and he did not use sufficient discrimination between parties really guilty and

those who were simply associated with them by ties of friendship or business. He was, moreover, very arbitrary in his behaviour to the bar, and his conduct towards Mr. Croke, at that time Crown Prosecutor, was condemned even by his own supporters. Captain Lonsdale and Mr. Simpson were trustees for John Batman—who may be named the discoverer of Victoria,* and their conduct in that capacity had been severely censured by Judge Willis. It appeared that Mr. Croke had purchased an allotment of land from them, and had paid for a portion of it by a bill of exchange. In noticing the case in Court, the Judge severely censured the conduct of Mr. Croke, who immediately left the Court, followed by the whole bar.†

* Mr. Batman died at his residence on Batman's Hill, on the 6th May, 1839, and his remains were interred near the entrance of the old cemetery.

† The following is the report of this scene, extracted from a newspaper of the day. In giving judgment, Judge Willis said, addressing the Crown Prosecutor, that he handed him the papers "for the purpose of instituting a prosecution against him, and, notwithstanding whatever private feeling might exist in consequence of Mr. Croke's dealing with Captain Lonsdale, he hoped he would do his duty.

"MR. CROKE.—Would your Honor explain to what dealings you allude.

"HIS HONOR.—I allude to your having purchased a piece of ground of Captain Lonsdale.

"MR. CROKE.—Which I have paid for.

"HIS HONOR.—But how was it paid, sir?

"MR. CROKE.—By a bill.

"HIS HONOR.—Yes, an accommodation bill, which was discounted at one of the banks.

"MR. CROKE.—My private affairs have no right to be made the subject of comment by your Honor before the public. The bill was paid.

"HIS HONOR.—It was an accommodation bill, and I am surprised that any officer—

"MR. CROKE.—Officer!

"HIS HONOR.—Yes, sir, officer; as Crown Prosecutor you are an officer of this court. I say that I am surprised, after what I have said from the bench about accommodation bills, that any officer of the court should have resorted to them. As to your private affairs, I shall bring them forward when justice requires it.

"MR. CROKE.—I declare that I do not owe £16, not £17, in the town of Melbourne. I have always money in the bank.

"HIS HONOR.—Then, sir, why did you resort to accommodation?

"MR. CROKE.—Because I could not get in what was owing me. Three times the value of the land was due to me at the time. I am in pecuniary matters as independent as any man in the court—I except none.

"HIS HONOR.—I hope Mr. Croke that, notwithstanding your intimacy with

About this period the Judge had seriously injured his popularity by severely punishing with fine and imprisonment Mr. Arden, the first editor of the *Port Phillip Gazette*, who had attacked him through the columns of that journal. A great many of the most liberal-minded of the Judge's friends were exceedingly sorry to observe his arbitrary behaviour in reference to the editor of the *Gazette*, and some even began to dread that the free discussion of public questions and fair criticisms on public men would be prevented. This was considered a favorable period for his Honor's enemies to make an effort against him. The people generally were in favor of the Judge, as he had done his utmost to prevent those frauds, which he found in operation in the district, whereby the poorer classes were injured by persons moving in what was termed respectable society, from being continued; and it was necessary to keep the movement as quiet as possible. A memorial, which was extensively signed by the gentry and insolvents, who united together upon this occasion, was accordingly transmitted to his Excellency, Sir George Gipps, accusing the Resident Judge of misbehaviour. Some ground for those charges certainly did exist, and, as he was no favorite at the vice-regal court in Sydney, he was suspended from his office in a very unconstitutional manner.

This arbitrary exercise of the prerogative aroused feelings of indignation in Melbourne. The *Gazette* was no longer edited by Mr. Arden; it was now directed by one who devoted a portion of his energies towards the suppression of the system of fraudulent insolvency, which was ruining every honest man in the colony; it had a valuable ally in the Judge, and it spoke out manfully on his behalf. It was, however, on purely public grounds that this was done, for the editor, at this period, had never spoken to Mr. Willis, and was not one of his private friends; he regretted that infirmity of temper, and

Captain Lonsdale in accommodation bills, it will not prevent your doing your duty.

"MR. CROKE.—Oh! this is too bad.

"HIS HONOR.—Mr. Croke, I should be very sorry to order you into custody, but I must if you do not behave yourself.

"[Here Mr. Croke and the rest of the bar present, consisting of Messrs. Barry, Williams, and Stawell, left the Court.]

"The Court then adjourned."

impatience of comment upon his public conduct, that unquestionably detracted from his efficiency as the first magistrate of the district; but he could not but be aware that, at this particular period, a man of unflinching firmness was required; and it cannot be denied that Mr. Willis set his face steadfastly against all who were guilty of improper practices in whatever station they were placed; and that he administered the same law to the poor that he did to the rich. His private character* was not impeached by his respectable opponents. The people appeared to think that in Mr. Willis they had a sincere friend, and when the intelligence spread that he had been dismissed upon a "hole-and-corner" petition, and that no opportunity had been afforded him of defending his conduct, public opinion turned in his favor, and against the Governor. Previous to his departure, addresses, very numerous, signed, were presented to him from nearly every part of the district; and the majority of the people saw him quit their shores with the utmost regret.† On his arrival in England he brought his case before the Privy Council, and received a considerable sum as compensation, it having been at once decided that the Governor had acted illegally in suspending him without giving him an opportunity of answering the charges which had been made against him. He was succeeded by Mr. William Jeffcott, of the Dublin bar, who, if he had not the shining qualities of Mr. Willis, had more prudence than that learned judge, and avoided making any enemies. Mr. Jeffcott did not retain the situation more than two years; he resigned, and was afterwards appointed Recorder of Singapore, in the East Indies, which office he held till his death, which occurred quite unexpectedly a few years ago.

In 1842 and 1843 the colony of New South Wales, including Port Phillip, had to struggle with a severe monetary crisis. In Melbourne the distress was very great, as trade was bad, and most of the merchants, and many of the stock-owners, were passing through the Insolvent Court. The depression was occasioned by the cessation of immigration, over speculation, and extravagance. Real

* The references to the domestic affairs of Mr. Willis were discouraged by every respectable man as mere slanders.

† Mr. Willis left the colony on the 13th July, 1843, in the *Glenbervie*; he was accompanied to the wharf, and on board the steamer, by about four hundred citizens of Melbourne, who appeared much affected by the event.

property became so reduced in value that only about one-tenth of its former price could be realized for it, even in Melbourne. Sheep, which at this period formed the main source of production, had depreciated so much that flocks, worth from £1 10s. to £2 in the first phase of Port Phillip settlement, had been sold at from 1s. 2d. to 4s. a head. Wool was very low; few settlers at this period were able to meet the expenses of their stations, and it began seriously to be feared that a great many sheepowners would have to abandon their flocks to the tender mercies of wild dogs and aborigines. The gloom which overspread all classes of colonists at this period was so great, that it seemed far from improbable that the industrial pursuits in which the people were embarked would be abandoned. Many settlers had purchased stock on credit, and as the bills they had given in payment fell due, it was found that their cattle and sheep would not sell at any price; and the whole of the flocks and herds of many unfortunate colonists had to be sold to pay insignificant balances for which they were pressed.

At this time Mr. O'Brien, of Yass, came forward and showed his fellow-colonists how a standard value of about nine shillings a head could be given to sheep by boiling them down into tallow. The same process had been carried on for many years in Russia, but had never until now been thought of in Australia. Hope again visited the breasts of many who had abandoned themselves to despair. There were from a million and a half to two millions of sheep in Port Phillip alone, at this time, which, even for tallow, were worth three quarters of a million of money. The settlers once more began with spirit; large boiling-down establishments were set on foot; and hundreds cleared off their incumbrances by turning their old ewes into tallow. In a year or two the stock-owners had materially improved in circumstances, and the balance of trade had fairly turned in favor of the district. The imports in 1842, ending October, were £288,000; the exports only £222,000; leaving a balance against Port Phillip of £66,000. The imports of 1843 were only £188,000, and the exports £254,000; leaving a balance in favor of the district of £66,000. The great majority of the colonists had received a severe lesson, which taught them the necessity of a strict economy, in order to succeed in their new mode of living. The

monetary depression in the colony of New South Wales, and especially in the Port Phillip district, had been very much aggravated by the reckless overtrading and extravagance of a number of persons who moved in the best society, and who involved the industrious and honest traders in the general vortex of ruin. The list of insolvencies published in the *Gazette* newspaper, with the dividends that the various estates realized, will prove the almost universal ruin that this system had wrought. The majority of the merchants, who at this time failed for large sums, were adventurers. Many had hardly anything to lose, and speculated with the utmost recklessness. There was one firm whose transactions occupied a prominent place in the history of this time; it was started on a different footing from any other mercantile house, and under circumstances so peculiar that it will not be out of place, briefly, to note them. In December, 1839, Mr. Alexander Hunter, of Edinburgh, entered into an agreement with Mr. Watson, on behalf of himself, the Marquis of Ailsa, and others, that they would remit the sum of £50,000 to Port Phillip, to be invested in stock; and it was farther arranged that Mr. Watson should pasture the stock, and manage generally in the colony, for which he was to have one-third of the increase of the property. The agreement also provided that Mr. John Hunter should be a partner with Watson, and have, also, a share in the increase. Watson and Hunter arrived in Port Phillip, and purchased large property; they were known simply as individuals, but, from the means at their disposal, they obtained extensive credit. The firm became involved in 1841, and applied to the banks for assistance, offering bills upon their partner, Mr. Alexander Hunter, of Edinburgh, which were accepted. They had, however, as a matter of form, to have their drafts endorsed, and several respectable persons in Melbourne were found willing to accommodate them. The first and second bills were paid, but all the rest were returned dishonored. The colonial creditors were alarmed when the bills came back, and, in order to protect their interest, arranged with the firm that all the property should be conveyed to Henry Ward Mason, as trustee, who should give his bills for £20,000, to be distributed rateably amongst the other creditors. The Marquis of Ailsa, and other creditors in Scotland, instituted proceedings against Mason, and Watson and Hunter, on

the ground that the latter were not partners but managers ; and the property was taken from Mason, who, as well as the majority of the colonial creditors, became involved in consequence. The case was in the Court of Chancery for a number of years, and occupied much of the attention of the Supreme Court. The decision of the resident judge, Mr. Jeffcott, was reversed by the Supreme Court in Sydney. An appeal was made from that tribunal to the Privy Council, when the decision of the Sydney judges was set aside, and that of Justice Jeffcott confirmed.

The first popular legislature for New South Wales met at Sydney in August, 1843, and elected, by a majority of eight, Mr. MacLeay speaker. The other candidate was Mr. Wentworth, the well-known politician. Several measures were brought forward by Messrs. Wentworth, Wyndeyer, and others, for relieving the country from the monetary depression : and one bill for permitting the issue of notes, secured on land, actually passed the house, but his Excellency very properly refused Her Majesty's assent when it was presented to him. There was no business of much importance to Port Phillip brought before the Council during 1843 ; but early in the session of the following year Dr. Lang moved—" That an humble address be presented to Her Majesty praying that she will be graciously pleased to direct that the requisite steps may be taken for the speedy and entire separation of the district of Port Phillip from the territory of New South Wales, and its erection into a separate and independent colony." This motion was seconded by Joseph Phelps Robertson, Esq.,—who had, on the resignation of Mr. Condell, been elected, without opposition, as member for Melbourne—and supported by all the Port Phillip Members. On the vote being taken it was lost by 19 to 6 ; all the members, with one exception, voting against the motion, except those who represented Port Phillip. The exception was rather a marked one ; the member who recorded his vote in favor of Port Phillip, with the representatives of the Southern District, was Robert Lowe, Esq., then a government nominee, and very little known, but who was afterwards returned by the constituencies of Cook, St. Vincent, and Sydney, as their representative, and distinguished himself in the Legislative Council of New South Wales as the opponent of the squatting system. He now occupies

a still higher position in the Imperial Parliament, and has, for a long time, been a minister, and one of the editors of the *Times* newspaper. This vote was unmistakable evidence that the people of Port Phillip had nothing to expect from the Legislative Council of New South Wales. At the suggestion of Dr. Lang, a petition was prepared and signed by the six representatives of the district, and, early in January, 1845, presented by them to his Excellency Sir George Gipps, in order that it might be transmitted to the Secretary of State for the Colonies, for presentation to Her Majesty. A letter was received from Lord Stanley in the month of December of the same year, addressed to the Governor, acknowledging the petition, and stating that Her Majesty had received it very graciously; but directing him to cause the Port Phillip members to be examined before the Executive Council, as well as any other witnesses the Council might think fit to hear on the subject. The Executive Council did as desired, and reported in favor of the separation. Port Phillip was much indebted to Dr. Lang for his indefatigable exertions on this occasion, and, that gentleman happening soon after to visit the district, he was invited to a dinner, or "separation festival," as it was termed, which came off in the Queen's Theatre, adjoining the St. John's Tavern, in Queen street, on the 11th February, 1846. In this ovation men of all classes, creeds, and countries, willingly joined; and no guest ever received a more flattering reception than did Dr. Lang from both his political friends and opponents. The chair was occupied by Alderman Moor, and amongst the company were observed all the clergy of the district, and the editors of the local newspapers. The colonists anticipated that no delay would now prevent the consummation they so devoutly wished for from taking place; but time passed on, and separation appeared as far off as ever. The petition of the Port Phillip members brought the subject prominently before the Imperial authorities at this time; but Lord Stanley went out, and was succeeded by a Secretary of State to whom the question was new; so that very little progress was made until the non-election movement, several years later, demonstrated to the inert politicians of Downing street that Port Phillip would not be any longer trifled with, and that, unless her just claims to be formed into an independent colony were recog-

nised, and she were entrusted with the direction of her own affairs, she would violently rend asunder the ties which bound her, without either the assent or assistance of the parent state.

About the time that the motion of Dr. Lang was so rudely rejected by the Legislative Council of New South Wales, a great public meeting was held in Melbourne. This event took place on the 4th June, 1844, and was termed the "squatters' meeting," because resolutions condemning Sir George Gipps's squatting policy were carried unanimously, and because the squatters mustered on horseback at Batman's Hill, headed by Captain John Harrison (who, at this period, occupied a station on the Plenty), and, as a demonstration, rode in procession to the meeting, which was held in front of the Mechanics' Institution. The majority of the speakers upon the occasion were squatters, and a gentleman, who, some years after, violently opposed the squatting system, seconded a resolution. This meeting was remarkable, exhibiting that up to that date nearly the whole influence of Port Phillip, nay, of the colony of New South Wales, was bound up in squatting. The persons who took a part in the proceedings were Messrs. Isaac Buchanan, William Hull, Edward Curr, Adolphus Goldsmith, Archibald Cuninghame, Claude Farie, Captain Hepburn, John Aitken, John MacCready, C. H. McKnight, Dr. Kilgour, Alexander Sproat, Henry Kent Hughes, J. H. Pyke, Dr. Playne, Edmund McNeil, J. Montgomery, Captain Webster, James Johnstone, Captain Harrison, Laurence Rostron, and Major Firebrace. It had been the original intention of those who called the meeting that it should have been held in the lecture room of the Mechanics' Institution, but, as a large number of squatters rode to the meeting, and as the numbers who attended far exceeded the limits of the interior of the building, it was held in the open air, the speakers addressing the audience from the low parapet which at this time stood in front of the institution. The chair was occupied by A. P. Mollison, Esq., who desired that no display of physical force should be made, but that they should deliberate calmly upon their grievances. It singularly exemplifies the public feeling at this time, that the only opposition was from Messrs. Kent Hughes and Pyke, who moved an amendment to the effect that the disposal of crown lands should be vested in the Legislature instead of the

Governor. This amendment, which was a step in the direction of popular government, had scarcely a solitary supporter. A very strong resolution in favor of separation was carried unanimously.*

In October, 1844, the Yarra river was flooded to a greater height than had ever been seen, even by the aborigines. On the first of that month the waters were observed to rise very suddenly, and in the course of the following night they swept over the flats around the city. The utmost consternation prevailed amongst those who resided in the swamps on both sides of the river, on finding their abodes insulated from the city and surrounding country. They began to remove such of their property as was portable. The residences of the settlers were swept away by the rush of water along the banks of the river; and the lower portions of Melbourne, adjoining the Yarra, were submerged, and all communication had to be carried on by boats. The steps on the old Custom House formed a jetty on which persons landed, and who, passing through the building, arrived on terra firma in a line with Flinders lane. The stores and foundries were flooded, and much damage was done to property. A boat, starting from about Flinders lane, in the city, could be steered across the flats straight to Liardet's Beach, near where the Railway Jetty now stands, at Sandridge. Several persons were missing, who, it was supposed, were lost in this great inundation. The Ovens, and most of the other rivers, overflowed their banks, and many lives were lost. A flood of a similar character visited the neighboring colony of Van Diemen's Land at the same period. Towards the close of 1849 Port Phillip was again subjected to severe inundations. The floods in the various rivers led to the loss of many valuable lives, and much property. The lower portions of Melbourne, and the flats and swamps around it, were submerged. A person could, on this occasion, take his stand on the crest of Batman's Hill, and look on little else than a vast sea, turn in whichever direction he thought proper. Property of every kind was swept away, and the damage

* That no plan for settling the terms on which pastoral crown lands are to be held or alienated can be satisfactory to the inhabitants of this district which is not based upon total separation from the middle district, in order that all funds raised in Port Phillip may be applied for the sole benefit of this district, under the control of a resident governor, and a legislature acquainted with the position and representing the interests of its inhabitants.

done by the Yarra alone was incalculable. The whole of the small farmers on the banks of this river were utterly ruined by the event.

The following statistics of the capital of the district of Port Phillip, in 1844, was compiled by the author of this history, and appeared in the *Port Phillip Gazette*, of the 11th May of that year; it is interesting as exhibiting the progress that it had made from its settlement to the period stated:—

	£	s.	d.
12,073 acres land reclaimed, grubbed, fenced, and cultivated, at £10	120,730	0	0
Crop on do., at £5	60,365	0	0
4,540 horses, at £15	68,100	0	0
92,493 horned cattle, at £3	277,479	0	0
2,840 Pigs, at £1	2,840	0	0
1,417,422 sheep, at 7s.	496,097	0	0
One year's clip of wool on its way to England, say 3,500,000 lbs., at 1s. 4d. lb.	175,000	0	0
Buildings, fences on farms, and stations, including Geelong, Portland, Richmond, &c.	600,000	0	0
Chattel property, goods, floating capital, shares, stores on stations, &c.	450,000	0	0
Agricultural implements	3,000	0	0
Value of property in the town of Melbourne	385,235	0	0
Making a total of	2,638,846	0	0

This calculation was based upon sufficient data, with the exception of the item "floating capital;" the stock, land in cultivation, wool, &c., were all taken from official returns, and the prices were fair at the period; the property in the town of Melbourne was taken from the valuation by the Town Council. The Sydney press were astonished at the wealth that a handful of settlers in the new district had accumulated in a few years, and endeavored to make it appear a vainglorious boast; it was, however, undoubtedly, as nearly correct as it was possible to frame such a return.

CHAPTER IX.

THE new experiment in Secondary Punishment—Exiles from Pentonville arrive at Port Phillip—Elements of the Population of the District in 1844—Public Meetings for and against the exile system—Loss of the emigrant ship *Cataraqui*, with 414 emigrants—Public Meeting to petition against pledging the Crown Lands of Port Phillip for emigration, jointly with those of Sydney—Mr. Cunninghame appointed as a delegate to proceed to Britain—The foundation stones of Prince's Bridge and the Hospital laid—Census of 1846—The riots consequent upon the Orange Festival of July, 1846—Departure of Governor Sir George Gipps, and arrival of Sir Charles Fitzroy—Character of Governor Fitzroy—Melancholy accident at Paramatta, and death of Lady Mary Fitzroy and Lieutenant Masters—Suspension of Sir Eardly Wilmot, and the commission to Mr. LaTrobe to proceed to Van Diemen's Land and inquire into its condition—Return of Dr. Leichardt from his expedition into the interior, and Testimonial from Port Phillip to him—The expedition sent to Gipps' Land to rescue the white woman who was a prisoner amongst the aborigines of that district—Shock of an earthquake in Melbourne—Her Majesty signifies her royal desire that Port Phillip should be named Victoria—Melbourne erected into a Bishopric, and Dr. Perry nominated to be the first Bishop.

IN 1844 Port Phillip was selected as a proper field for an experiment in "*secondary punishments*;" and, in the latter part of that year, a number of exiles from the new model prison, at Pentonville, were landed at Melbourne. The punishment of criminals, by imprisonment in Britain in the first instance, and banishment afterwards to some of the colonies, was brought forward by Earl Grey,* and it had come to be considered a matter of national importance, and was receiving the serious attention of those who had taken an interest in colonization and the reformation of criminals. A wide difference of feeling existed amongst the colonists of Port Phillip as to the propriety of allowing such persons to be introduced; public opinion, for the first time, divided, and two parties started into existence; and it was now clearly demonstrated that the interests of squatters and townspeople were very far from being identical.

* Report of Commons, 1837, p. 218.

Before entering upon this question, it will be necessary to glance at the elements of the population of the district at this period. Previous to the considerable free immigration of 1841, there were comparatively few who had come to Port Phillip direct from Europe. The population consisted mainly of adventurers from the adjoining colony of Van Diemen's Land, and from the middle district of New South Wales. As free immigration into those settlements had been upon an extremely limited scale up to that time, there is no doubt that many of those early adventurers were incarnadined with convictism. The tone of morality was, of course, pretty much on a par with that of the two colonies from which the first settlers had been drawn; it was, perhaps, lower, because very few, comparatively, of the gentry and better classes from these colonies intermigrated. A number of young men—sons of respectable settlers in New South Wales and Van Diemen's Land—had, however, adopted Port Phillip as their home; and this class began early to receive considerable accessions from England. In 1841 and 1842 the large free immigration, at the expense of the land fund, took place; the majority of those who arrived at this period were of a superior order; they formed public opinion, and gave a tone to the society of the district. From this time the decline of the influence of the expiree order is to be dated. Indeed, it was soon the interest of all of them, who could conveniently accomplish it, to throw a veil on their career in the penal settlements. In 1842 the population might be thus described: the educated and respectable classes, many of whom had settled on the Crown domains, and in some cases on purchased lands; the free working classes and tradesmen, introduced at the cost of the land fund; and the expirees and convicts and their families, who had come from the neighboring colonies.

Many of the free immigrants were settled in industrious pursuits, and, although originally introduced by the land fund as laborers, were already in a position to employ workmen. There was at this time unlimited space for stock; and flocks and herds increased at an amazing rate; land was cultivated in favorable situations; and business was increasing in the towns: but the great want of manual labor began to be very generally experienced, and as the land fund had become so low as to be utterly inadequate

for supplying the district with any immigration, there was no probability of any free labor arriving from England. The settlers were once more under the necessity of having resource to the neighboring convict colonies. There were generally ex-pirees arriving in considerable numbers from the opposite shores of Van Diemen's Land, but in several cases subscriptions were raised in order to give them free passages across Bass's Straits. The population was again deteriorated by this impure stream, but as labor, like water, will find its level, it was found impossible to check the influx of felony by legislative influence.

The *Royal George* anchored in Hobson's Bay on the 16th November, 1844, with the first exiles. This vessel had several respectable colonists on board, who had carefully watched these men, and who gave them an excellent character. No sooner, however, was it known that they had actually been criminals, than a portion of the press denounced the system in the most violent language, and the indignation of the working classes was aroused to the highest pitch, at the prospect of a speedy reduction in the rates of labor. The Town Council of Melbourne commenced the agitation against the exiles by passing a resolution in which it adopted a petition to the Legislature, praying protection from the threatened inundation of convicts.

There were many of the most intelligent colonists, however, who deemed this sudden condemnation of these strangers quite unmerited. Messrs. Black and Yaldwin, who had arrived from England in the *Royal George*, and who had devoted some attention to the subject, were disposed to view the exiles as a far less objectionable class than the off-scourings of the penal colonies. The former gentleman had, moreover, had an interview with Lord Stanley, the Colonial Minister, and had urgently pressed him to assist the colony with free labor until the land sales could be resumed. That nobleman had, however, replied that it was quite useless to ask anything that required money from the home government, as such requests could not be granted. Acting upon these impressions, a public meeting of the inhabitants was held on the 17th December, in the *Royal* hotel, in order to induce the Imperial Government to take such steps as were necessary for forwarding exiles accustomed to rural pursuits to the country districts of Port Phillip. The chair

was occupied by Major Firebrace, and the meeting was addressed by Drs. Bernard and Palmer, Messrs. Carr, Foster, Cunninghame, Black, and Hughes, who advocated the introduction of the exiles, and by Messrs. Kerr, Broadfoot, and McCulla, who opposed the measure. The following resolution was carried :—"That, in the absence of the ordinary means of obtaining free immigration, and to check the introduction of expirée convicts from Van Diemen's Land, it will be beneficial to the province of Port Phillip to receive the exiles." But the opponents of the measure were not satisfied with the result, and resolved upon holding an opposition meeting in the *Royal Exchange* hotel. The working classes mustered in great numbers on that occasion, and resolutions condemning the Government for sending exiles were carried almost unanimously. It was remarked that no class were so much against the introduction of exiles as the old convicts, who could hardly be expected to be actuated by purely moral motives; indeed, the question assumed a good deal the character of a dispute between the employers and the employed. The home authorities forwarded several vessels with exiles in the early part of 1845, but, finding that the public feeling was still against the experiment, they ordered them to be sent to Van Diemen's Land.

A very sad catastrophe occurred in August, 1845, in Bass's Straits. The only emigrant ship that had been despatched from Britain that season was wrecked, and the whole of the emigrants, amounting to 423, were lost, with the exception of 9. So disastrous a shipwreck has seldom occurred, and, as the emigrants were urgently required in the district, the loss was incalculable, and the colonists were overpowered with regret at the event, which was instantly recognised as a great national misfortune.*

* The following are a few particulars of this melancholy event, condensed from the *Port Phillip Gazette* :—

"LOSS OF THE 'CATARAQUE' EMIGRANT SHIP.—On Saturday morning, Mr. Guthrie, the chief mate of this unfortunate vessel, arrived in Melbourne in the *Midge*, bringing the melancholy intelligence of the wreck of the *Cataraque*, emigrant ship, from Liverpool to Port Phillip, with the total destruction of the vessel and the loss of all on board, with the exception of nine. The following are the particulars of this disastrous event :—On the night of Sunday, 3rd August, at seven in the evening, the vessel was hove to under close-reefed top-sail and staysail; from the reckoning it was supposed the vessel was in longi-

In 1845 two public meetings were held in Melbourne. The first took place on the 11th September, and was held to consider the propriety of petitioning the Imperial Parliament for the admission of Australian grain into British ports upon the same terms as had been conceded to that produced in Canada. It was but thinly attended, and all the resolutions were passed unanimously. The other meeting, which was of very considerable importance, was held

tude 151° 22, and latitude 39° 15 south. At half-past four the following morning the vessel struck upon a reef off King's Island, but for three quarters of an hour previous the vessel had been running before the wind. When the vessel struck the land was not visible, and it was excessively dark, and the waves began to break over the vessel, sweeping the decks and washing off many of the passengers who were unable to maintain their footing. The passengers were now got on deck with great exertion, but, unable to maintain their footing there, they were swept off by the violence of the waves. At first the crew prayed the Captain to cut away the masts; but he replied that he would not, but he would keep every rag of canvas spread, as their only chance of getting the ship over the reef; and this he did, but the helm and mizen-mast went, and then the fore-mast and lastly the main-mast broke, and the crew were compelled to cut it away. The Captain now cried, 'My lads, go below and get hold of as many coils of rope as possible, and we will try and get it on shore: if once we had it fastened there, we could all haul ourselves ashore.' Five or six of the bravest went below, and, at the imminent peril of their lives, succeeded in getting up four coils of rope; the cargo was unshipped and rolling about, threatening to crush these brave fellows. The last in the hold, a boy named Blackstock, would have been smashed but for a black man who threw him a rope, the ladder having been knocked away. Every effort to get the rope fastened on shore was unavailing, and the crew were compelled to abandon it in despair. The shrieks of the women and children were at this time awful; most of them were drowned in their berths; a few, who got on deck, were washed away instantly. The Captain encouraged his men, telling them to keep up their hearts and that they would all get on shore; but, as time wore on, all prepared for death. As a forlorn hope, the Captain allowed the main-mast to be cut away, in hopes that the vessel would right, but all to no purpose; and all having now been done that human ingenuity could effect, and there appearing no chance of the vessel righting or drifting over the reef, and the sea breaking over the wreck in all directions, the passengers and crew abandoned all hopes of being able to do anything further, and for their safety clung to the wreck as a forlorn hope. After a day passed amidst the greatest sufferings, and a night so dreary that it would be impossible to pourtray it, the vessel parted amidships, and gradually broke up. The Captain made every exertion to save passengers, until swept away. Only nine persons reached King's Island, 414 having perished. The survivors were rescued by Mr. Howie, a resident on the island, and were brought to Melbourne, where every attention was paid them by the inhabitants."

on the 28th September, and was attended by all the leading gentlemen of Port Phillip. It was convened by the Mayor, pursuant to a requisition signed by a number of influential colonists, and was for the purpose of taking into consideration the necessity of petitioning the Queen against the proposed scheme of pledging the Crown lands of Port Phillip, jointly with those of New South Wales proper, in order to raise a loan for immigration purposes, and to consider the propriety of appointing an agent to proceed to England, to protest against any such pledge of the Port Phillip land, and also to further the great cause of separation. The principal addresses at this meeting were delivered by Messrs. Curr, Montgomery, Brewster, Foster, Stawell, Marsden, and Thomas Wills; and no public occasion, perhaps, ever occurred in Port Phillip at which greater ability was displayed by the various speakers. The meeting passed resolutions strongly condemning the proposed plan of mortgaging the Crown lands of Port Phillip, as considered to be of incalculable injury to that district, causing a further alienation of the land fund to afford labor to the middle district, and creating a new and almost insurmountable bar to separation. That, at the same time, it was expedient to adopt vigorous measures for procuring an immediate and copious supply of immigrant labor into the district by a loan secured on its own lands. The meeting appointed Mr. Archibald Cunninghame as delegate, in order that he might proceed to England to carry out the views of the colonists; and a committee* was appointed to frame the petition to Parliament, and instructions for the guidance of the delegate. Before separating the meeting instructed the chairman to forward a copy of the proceedings to Lord Stanley, the Secretary of State for the colonies, with a request that he would not proceed to pledge the Crown lands of Port Phillip jointly with those of the middle districts, until the arrival of the agent who had that day been

* The following are those who were on this important committee:—Messrs. Curr, Westgarth, Kerr, Cavenagh, A. H. Hart, Marsden, Westby, P. M'Arthur, Firebrace, Holland, Playne, A. F. Morrison, Geo. Russell, C. Barnes, N. Black, Riddle, S. Henty, Goldsmith, W. Hamilton, W. Campbell, Winter, T. Mitchell, Murchison, Stevens, Bradshaw, G. S. Brodie, J. Airey, Willis, Verner, Stawell, J. Cox, Annand, Webster, Highett, Duerdin, G. Macredie, J. H. Ross, Turnbull, Knight, Dr. Jamieson, Rodger, R. W. Pohlman, Splätt, M'Combie, Montgomerie, Brewster, Dalgety, O'Shanassy, and M'Culla.

nominated to proceed to Britain. Mr. Cunninghame, the delegate, who was at this period sent to the mother country to advocate the cause of the district, was a barrister at Port Phillip, and rather a prominent politician at this period.*

The 20th of March, 1856, was a day worthy of commemoration, as the bridge across the Yarra and the Hospital—two great public works—were commenced upon it. The foundation stone of Prince's Bridge was laid by Mr. LaTrobe, Superintendent of the district, under the direction of the Freemasons, an oration having been delivered by Brother E. J. Brewster, M.C., on behalf of that ancient fraternity. Immediately afterwards the foundation stone of the Hospital was laid by the Mayor, Dr. Palmer. With the solitary exceptions of the procession on Separation Day, and that to welcome Sir Charles Hotham, never has so imposing a spectacle been witnessed in Collins street, which, in the language of the *Gazette*, "presented to the imagination one of those enchanting scenes so vividly described in the Arabian Nights: bands playing, fifty banners fluttering in the breeze, the splendid costumes of the masons and public bodies, with the dense crowds of people, made up a perfect 'fairy scene.' The shops were shut, and everything betokened that it was a gala day."

In March, 1846, a census of the colony of New South Wales was taken, which exhibited the great progress the colony had made since 1841. The population of the Port Phillip district was given at 32,875. By comparing the district with South Australia at this period it will at once be observed how far Port Phillip had outstripped her competitor, notwithstanding the many advantages which the latter possessed in a local administration and a resident governor.†

* Mr. Cunninghame proceeded to Britain in order to carry out his mission, and acted for the colony in London for some years. He did not return to the colony, but died at his native place—Thornton, in Ayrshire—in 1856.

† The following statistical facts regarding the two colonies at this period will no doubt be interesting:—

	SOUTH AUSTRALIA	PORT PHILLIP		SOUTH AUSTRALIA	PORT PHILLIP
Population of whole colony	22,320	32,876	Deaths	238	341
Chief town	7,413	10,954	Children at school ..	1,536	2,200
Births registered, 1845	708	1,554	Revenue	£36,182	£89,117
Marriages	141	332	Expenditure	£32,099	£40,900
			Convictions	22	75

In July, 1846, an alarming riot occurred in Melbourne, which kept the citizens in a state of feverish excitement for more than a week, and threatened at one period to end in a general fight between the Roman Catholics and Orangemen. The members of the Orange Society had resolved to celebrate the anniversary of the battle of the Boyne by a festival in the *Pastoral* hotel, at the north-east corner of Queen and Little Bourke streets. The building was decorated for the occasion, and Orange flags projected from the windows which fronted Queen street. This display aroused the ire of the Roman Catholic population, who soon assembled in hundreds round the *Pastoral* hotel, many arriving armed. The Mayor, having been apprised of the disturbance, hastened to the spot. He ordered the door of the hotel to be opened, and entered for the purpose of quelling the riot, but the Roman Catholics, now finding an entrance, rushed through the hall-way towards the staircase, where they were met by the Orangemen, and a regular scuffle took place. Those in front fired into the hotel, and were quickly replied to from the Orangemen in the building. At this moment the Rev. Dr. Geoghegan arrived on the spot, and at once attempted to restrain the Roman Catholics. Perceiving that the reverend gentleman was in great danger, Messrs. O'Shanassy and Hurley went towards him, to get him out of the particular situation he was in, when the latter was shot in the shoulder. Another man, drinking a glass of ale in the St. John's Tavern, opposite, was dangerously wounded in the cheek; the shot having entered through the bar window. The riot was now at its height; the doors, windows, and furniture of the *Pastoral* hotel were demolished; the one party attacking the building and endeavoring to force an entrance, the

The population of Port Phillip was thus distributed:—Males, 20,199; Females, 12,696. Of South Australia:—Males, 12,670; Females, 9,650.

The population of Port Phillip was thus distributed over the territory:—*Town of Melbourne*—Gipps Ward, males, 1758; females, 1602; total, 3360; Bourke Ward, males, 976; females, 929; total, 1905; Lonsdale Ward, males, 1481; females, 1176; total, 2657; LaTrobe Ward, males, 1557; females, 1495; total, 3052. *County of Bourke*—Males, 3688; females, 2688. *Gipps Land*—Males, 612; females, 240. *Murray District*—Males, 1142; females, 416. *Western Port*—Males, 2516; females, 1009. *County of Grant and Geelong*—Males, 2339; females, 1531. *Portland, inclusive of the townships of Portland and Belfast*—Males, 4130; females, 1610.

other as obstinately defending every inch of ground. Fortunately, the military were obtained, and through their interference peace was restored; the Roman Catholics were induced to disperse by the promise of the magistrates that the dinner should not be allowed to take place that evening. There were three or four persons severely wounded in the riot. A number of Justices of the Peace assembled in the Police office, and several of the orange party were taken into custody, and were bound over to keep the peace. Mr. William Hinds, a respectable grocer in Queen street, who was charged with firing the shot which wounded Hurley, was committed to take his trial, but admitted to bail. The town was alarmed the whole of that night by skirmishings between the individuals attached to the various factions, and on the following day the two parties were assembled in different quarters of the city. The Superintendent and Magistrates consulted upon the best line of conduct to be adopted, and agreed to disperse the rioters. The whole of the hotels were ordered by the authorities to be closed; many of the shops were shut, and as it was a dense fog the town presented a dreary enough appearance. The police and military were now called out, and, having formed in Market street, under the eye of the authorities, proceeded along Collins street and Elizabeth street to a hotel in Flinders lane, where fifty Orangemen were assembled, who immediately dispersed. The cavalcade next marched out to the top of Elizabeth street, where the Roman Catholic party, to the number of eighty, were drawn up; after some hesitation, the whole were prevailed upon to disband and go back to their avocations. The town was put under martial law for the night, and the soldiers bivouacked in Collins street, opposite the *Royal Exchange* hotel, where the Bank of New South Wales now stands. It was something new and striking to see their watch-fires blazing in the middle of the main street of the usually quiet town. Next morning a number of persons, who were ringleaders in the riots, were bound over to keep the peace; and in a few days Melbourne resumed its wonted quiet and orderly aspect. The magistrates were censured for their conduct upon the occasion, but, probably, they acted as well as any other body of men who had been so placed would have done. This fracas was the occasion of the building of the Protestant Hall, in which the Orange festivals

were afterwards celebrated; it also gave birth to the party procession act, prohibiting any faction or party flag from being displayed under any circumstances in the colony of New South Wales.

Sir George Gipps took his departure from Sydney in the *Palestine*, on the 9th July, 1846, and his successor, Sir Charles Fitzroy, arrived in H. M.'s ship *Carysfort* on the 2nd August. He differed very widely from the two gentlemen who had immediately preceded him in the administration of the government of the colony of New South Wales, and, although he was well connected in Britain, and had held a similar appointment in Antigua, he was yet nothing more than a plain gentleman, who made little pretensions to anything like an intimate knowledge with the science of government or with colonial politics. He chiefly administered the affairs of the colony through his Colonial-Secretary, and never did one solitary act that will cause his name to be remembered. The historian cannot praise, and yet he has not cause to blame. There was very great sympathy for His Excellency amongst all classes, in consequence of the great domestic calamity which befel him about a year after his arrival. In driving out of the park attached to the Government House, at Paramatta, the horses took fright and ran off, dashing the carriage against an oak-tree, and injuring Lady Mary and his aide-de-camp, Lieutenant Masters, so seriously that they both died almost immediately afterwards.*

In October, 1846, Mr. LaTrobe was commissioned to proceed to Van Diemen's Land, in consequence of the suspension of Sir Eardly Wilmot, the Governor. He was directed to inquire minutely into the state of that colony, and to report to the Home Government. During his absence the government of Port Phillip was placed

* Lady Mary Fitzroy, who was very popular, was the sister of the present, and daughter of the late Duke of Richmond, her mother having been sister to the Duke of Gordon; it was her mother who gave the celebrated ball in the city of Brussels the evening before the battle of Waterloo. His Excellency was starting from the Government House, Paramatta, in order to proceed to Sydney; he had just ascended the box when the horses started off at full speed; Sir Charles, who was a good whip, did all he could to guide them, but, unfortunately, the carriage came into contact with one of the oak-trees in the avenue, and both Lady Mary and Lieutenant Masters were thrown out and killed. The hood of the carriage struck Lady Mary on the chest. She only said, "Sir Charles," when taken out and instantly expired.

under the direction of Captain Lonsdale, the Sub-Treasurer of the district, whose place was supplied, *pro tem.*, by Mr. James Simpson, who had formerly been Police Magistrate of Melbourne.

In the course of 1846 a number of public meetings were held in Melbourne. On the 17th April a meeting was held, in the *Royal Hotel*, for the purpose of testifying the admiration of the colonists of the enterprise and resolution of Dr. Leichardt, who had just returned from his exploring expedition through the northern portion of the Australian continent.* Port Phillip was not so directly interested in these important discoveries as the middle and northern districts of the colony; it came forward, however, to express its sense of the inestimable services which Dr. Leichardt had rendered to the colony and the world. The meeting not only expressed its sense of the magnitude of the discovery, and the great value it would ultimately be to the whole colony, but it set on foot a public subscription in order to present the gallant discoverer with a testimonial to mark the approbation of the district.

Dr. Leichardt departed from Sydney on his first expedition into the interior of the vast Australian continent on the 13th August, 1844, with a party of seven whites, two blacks, and one negro, and penetrated direct north from New South Wales until he reached the promontory known as York's Peninsula. He was, to the eternal disgrace of the government of Sir George Gipps, refused the sum of £1,000, voted for the purpose of this expedition by the Legislative Council of New South Wales; but, not discouraged, he proceeded on his own resources, supplemented by assistance from some colonists, one of whom was an expirée convict. Many rumors of his death reached the settlers on the borders of civilization after he had taken his departure, and his friend, Mr. Lind, of Sydney, wrote a beautiful poem on his supposed death; few hoped to see him escape from the depths of the wilderness and return to civilised society. Not many events have created so great a sensation as the return of Leichardt's party, on

* The speakers at this meeting were Mr. Brewster, M. L. C., Dr. Palmer, Messrs. Simpson, Webster, Heape, McCombie, Cavenagh, Westgarth, and Gilbert; and the following Committee was appointed to obtain a testimonial for Dr. Leichardt: the Mayor, Messrs. Cavenagh, Heape, Purvis, Westgarth, McCombie, and Lang.

25th March, 1846, in the *Heroine*, Captain McKenzie, which vessel received them on board at Bally. From the services he had rendered to the world by the result of this expedition, and his unfortunate fate in attempting, some time afterwards, to penetrate to Western Australia, Dr. Leichardt has attained a reputation equalled by none whose exploits have been confined to Australia. And is not this peaceful renown the highest kind of glory? Such fame is not the result of human degradation and suffering: it is not sullied by cruelty and oppression, nor obtained by rapine and blood; no towns and villages have had to weep over it. Men of the stamp of Leichardt are far more worthy of admiration than such as have obtained notoriety by the reckless sacrifice of the lives of their fellow-men, and who are but death's factors; they have devastated realms, and passed over the earth like a scourge, to leave all behind them withered and wasted. Let Leichardt be long remembered, for he was a real benefactor of mankind, and endowed with great moral courage; let him take the first place amongst those who are illustrious in Australian history.

Immediately upon his return Dr. Leichardt published an account of this celebrated expedition. It will be found in all the newspapers of that day and in many of the public libraries. It possesses intense interest for those who love, or think they love, nature in her grandest and wildest aspects, and who sympathize with the poetry of the solitary wilderness.* The very smallness of the party and the scant supplies it carried were, strange to say, its salvation; had Dr. Leichardt gone forth under government protection, with a large and well appointed party, it is not probable that he would have accomplished his great feat; the smallness of the party and its unencumbered condition led to compete success.

There were public meetings in 1846 for obtaining a supply of labor from Van Diemen's Land—against some proposed squatting regulations—to extend the jurisdiction of the Court of Requests to £80—for promoting immigration by rendering ship-building safer—

* He thus describes the view before him in one locality: "Sandstone ridges behind sandstone ridges, lifting their white rocky crests over the forest; deep gullies with perpendicular walls; rocky creeks, with boulders loosely heaped in their beds, interrupted by precipices over which the waters leaped."

and for the purpose of rescuing the white woman supposed to be detained as a prisoner by a tribe of aborigines in Gipps Land. The meeting in connection with the supposed detention of a white woman by the Gipps Land blacks resulted in a party being sent there in quest of the supposed prisoner. From an early period in the history of Port Phillip this rumor had prevailed. By many persons the unfortunate female was said to be a Miss Lord, the eldest daughter of John Lord, Esq., a merchant of Sydney, who, in the course of a voyage from Britain to New South Wales, had been wrecked on the coast, and made a prisoner by the natives. A reward of £1000 was offered by her relations, but no authentic intelligence could be learned of her fate. As time wore on, rumors were circulated by the other tribes that a young lady, answering to the description of Miss Lord, was a prisoner with the blacks, and a native trooper announced, in 1836, that he had seen the lady, and that she was kept a close prisoner. Many persons, on the other hand, thought that the white woman was a Miss M'Pherson, who also was wrecked on the same coast about that period. The party, however, did not discover any traces of the prisoner, as, unfortunately, there arose a difference of opinion amongst its leaders in reference to how far the law would protect them in any engagement they might have with the aborigines. This was a most important point, which those who had organised the expedition had apparently overlooked. In consequence of having strong doubts about how far the law would justify them, the party never actually attempted to rescue the unfortunate prisoner.

On the 28th of April, 1847, a severe shock of an earthquake was felt at Port Phillip, about four o'clock in the afternoon. The sensation to those inside their houses was exactly like that of a heavy body being violently thrown down in the upper portion of the buildings. It was less felt in the open air. In the Supreme Court, where a squatting boundary case—Taylor and McPherson v. Sutherland—was being tried before the Resident Judge and a special jury, the panic was very considerable, and the Court was adjourned. The shock was very severely felt in the lower portions of Melbourne, particularly about Elizabeth street. There have been two other earthquakes in this colony. The first since its settlement

was experienced in April, 1841, and the third on the 17th September, 1855. The official report from Mr. R. B. Smyth, dated, Observatory, 3rd October, 1855, says, "A slight shock of an earthquake was felt on the 17th September, at 2.52 a.m. The shock was felt over a very extensive area, apparently conforming rudely to the line of the coast range. It was not accompanied by any remarkable changes in the barometer, which, at 9 p.m. on the night of the 16th, stood at 29.9 in., and, at 9 a.m. on the 17th, at 29.783 in., the thermometer, at the time of the shock, indicating a temperature of 50 degrees."

In anticipation of separation, it was announced in the beginning of 1848 that her Majesty had been graciously pleased to allow Port Phillip, when erected into an independent colony, to be named after herself, and that, instead of continuing to be called Port Phillip, the Southern District should have the popular and world-wide name of Victoria—a name endeared to every subject in her dominions. Victoria will be associated with the proudest period in the history of Britain. Her reign will be one of the most brilliant and successful that history has recorded. The progress of civilization and the dawn of unfettered commerce; the advance of education, colonization, temperance, and various other measures for the amelioration of the social condition of mankind; the success of steam, and of agricultural improvements—all mark her reign as the Augustine age of Great Britain. Her Majesty thought fit to associate an humble territory at the antipodes with her power, her glory, and her renown; and it was the universal wish of its inhabitants that the new colony might do her no discredit. Well might the Port Phillipians be proud of the distinction conferred upon their humble district. Victoria will be linked with all that is great and dazzling in association; as a queen, a wife, a mother, history will pourtray her in the most romantic and attractive colors. What sovereign that has ever yet wielded the English sceptre can compare with her in social virtue, in mild benevolence, and in unconquerable courage and belief in the fortune of her people. She enabled Port Phillip to commence its independent career under bright auspices by giving it her right royal name. No offshoot of Britain ever better deserved so high an honor; never, in after ages, when Queen Victoria has

become only a historical recollection, let the denizens of Victoria forget the first benefactor of their magnificent and fertile land; and thus it may become her greatest and most lasting monument, when it has outstripped many of the nations now deemed great in population, wealth, knowledge, and science.

In the year 1847 the Rev. Charles Perry, D.D., was appointed Bishop of Melbourne; he arrived in the *Stag* on the 23rd January, 1848, and was installed on the 28th of the same month, in the cathedral church, St. James's, Melbourne. On the 18th of February her Majesty's letters patent were read in St. Peter's Church, which constituted Melbourne a bishop's see, and appointed Dr. Perry to the bishopric. Melbourne was, of course, by this event, elevated to the rank of a city.

CHAPTER X.

THE Orders in Council, and the Land System of the Colony—Mr. John MacArthur, of New South Wales—Sir Richard Bourke's Squatting Act—The Price of Land, and Wakefield's System considered—The Squatters, and the difficulties they had to contend with in first occupying the country.—Legislation on the Squatting question—The Earl of Ripon—Sir George Gipps and Lord Stanley—Increased License Fee—Issue of the Orders in Council, and difference of opinion in reference to the manner in which they were to be interpreted—The Reference to the Secretary of State for the Colonies—How the Public Lands ought to be used; their great value and vast importance as an element of Colonization.

ON the 9th March, 1847, the celebrated Orders in Council, under the authority of an Act of Parliament (9 and 10 Victoria, c. 104),* were issued. Before reviewing this very important document, it is proper to take a retrospective glance at the system of Crown land occupation which had been in force in the colony previous to this date.

The founder of the pastoral interest in Australia was Mr. John MacArthur, of Camden, New South Wales, who, in 1803, applied to the Government for wild land on which to graze sheep. In his letter he expressed his conviction that any quantity of fine wool

* "An Act to amend an Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies, and to make further provision for the management thereof."

might be produced in Australia, and solicited the encouragement and protection of the Government to enable him to import stock to make the experiment. The Executive gave him a grant of land, and he brought out fine merino sheep, which increased rapidly under his own management; and he was soon enabled to supply other colonists, who were desirous of entering into the same speculation. The colonists discovered that it was a more profitable occupation to graze sheep on the waste lands than to cultivate the estates which the Crown had granted to them; the demand for agricultural produce being extremely limited, while, on the other hand, wool could be exported to any extent, and would always meet with a ready market in Europe. A very objectionable class, however, began to settle, here and there, on the Crown lands at this period; this was comprised of runaway prisoners of the Crown, and expirée convicts, who erected huts, and became "sly grog" sellers, cattle stealers, and receivers of stolen property. In order to suppress this system, and to legalise the occupation of Crown lands by respectable persons, for grazing purposes, the Squatting Act was framed, in 1836, by Sir Richard Bourke. The occupiers were called on to pay a license of ten pounds yearly, and an assessment was also imposed, which, when collected, was to be expended in maintaining a proper police force in the bush beyond the settled districts. A new order of officials was called into existence, named Commissioners of Crown Lands, whose duties were nearly the same as the land bailiffs on European estates. They had the settlement of all disputes between squatters in reference to boundaries; and they had to maintain law and order beyond the bounds of location. So wonderful was the rise of the squatting interest in New South Wales that, in 1845, the sheep depasturing on Crown lands had increased to three millions, and the horned cattle to one million. The stock-owners were the pioneers of civilization into the Australian wilderness, and opened up its vast primeval solitudes, which they occupied with their flocks and herds. The herbage—which, from time unknown, grew up in wild luxuriance, withered, and died without yielding subsistence to any animal, except a few scattered kangaroos—was now, for the first time, turned into a source of wealth.

Port Phillip was discovered and occupied, in the first instance,

by settlers from Van Diemen's Land; but, having been found to be within the geographical limits of New South Wales, it was taken possession of by the Government of that colony. Those who had crossed Bass's Straits, and taken up the country on the coast, as well as the adventurers who had hastened across the Murrumbidgee and Murray, and occupied the country on the Ovens, the Campaspe, and the Loddon, were, all alike, regarded as squatters and occupiers, under Governor Bourke's squatting act.* The price of land, which had been 5s. an acre since free grants had been abolished throughout the whole territory of New South Wales, was, in 1839, raised to 12s. an acre, and, in 1841, the representations of the South Australian Company induced the Government to introduce the system of sale at a fixed price of £1 an acre. In 1842 the system of sale by auction was resumed at a minimum upset price of 12s. an acre; and, in 1843, the Land Sales Act was passed, raising the upset price to 20s., with liberty to select, at the upset price, country portions put up to auction and not bid for, or which had been purchased and the deposit forfeited by the first buyer from the Crown. The adjoining colony of South Australia was settled on what is termed the Wakefieldian plan of colonization, the leading feature in which was "a sufficient price." The Company had stumbled on 20s. as the price it deemed "sufficient," and those who took the lead in the management of its affairs were anxious that this price should be uniform throughout the Australian colonies. It is far from unusual for those not conversant with the affairs of the Australian colonies to attribute some portion of their material advance to Mr. Wakefield's system; but the real truth is, that the progress of the whole of the British trans-Pacific colonies—even prior to the discovery of gold—may clearly be attributed to accidental circumstances, of which Mr. Wakefield had no knowledge, and did not take into account in his general plans; which, indeed, only gradually came out as the settlements slowly developed their physical capabilities and natural resources. In South Australia, where Mr. Wakefield's plan was ostentatiously pursued, the people were for a long time in great distress, after the capital imported with the emigrants from England had exhausted itself into fixed pro-

* "An Act to Restrain the Unauthorised Occupation of Crown Lands."

perty. It was founded as an agricultural colony, and Mr. Wakefield's principle of colonization acted on: but, in 1841, the whole of the land in cultivation was only 6,722 acres, and, in 1849, it was but 44,913½ acres, much of the wealth which had accumulated by the latter date having been made in squatting and mining pursuits. In New Zealand the efforts to carry out some of Mr. Wakefield's crotchets* ruined hundreds of respectable colonists; and the only branches of industry that are likely to give the settlements there a start are exactly the same as have made the colonies in Australia—viz., squatting and mining pursuits. Mr. Wakefield was of opinion that all the errors of the colonizing system of Great Britain had their root in the price of land being too low. In consequence of this, laborers have become land-owners too soon, and the people of the various colonies have become too much dispersed. He proposed to cure this evil by a "sufficient price" for the land; but, although, in his work,† he has devoted nearly a hundred pages to the elucidation of the subject, no reader, however intelligent, can gather the real character or amount of the sufficient price. He informs his readers of what the sufficient price ought to depend on. First—it must prevent the laborer turning into a landlord too soon; but this is made to turn on the increase of population, in order to determine when the place of a laborer turning into a landlord would be filled by another laborer. Second—the sufficient price must depend on the price of labor and the cost of living in the colony, as according to the rates of those would be the laborer's power to save the requisite capital for turning landlord. It is made still farther to depend on the soil and climate of the colony, which must determine the quantity of land required by the laborer to commence on his own account. Out of this chaos Mr. Wakefield is not, after all, able to say what would be a sufficient price for any one colony. When pressed on the point he says, "I could

* Wakefield's system also failed in North America;—Lord Sydenham, when in Canada, says—"Wakefield's plan of bringing out laborers by the sale of land won't do. The land revenue of Canada does not reach £20,000 a year—enough to bring out 2,000 people; the voluntary emigration is over 23,000. To force concentration is the greatest of absurdities."—*Life of Lord Sydenham*, by his brother, Poulett Scrope.

† View of the Art of Colonization.

name the sufficient price for some colony with which I was well acquainted, but I should do it doubtingly and with hesitation, for, in truth, the elements of calculation are so many, so complicated in their various relations to each other, that in depending upon them exclusively there would be the utmost liability to error."

It is quite clear that the sufficient price is not to be arrived at by Mr. Wakefield's elements of calculation, which are as difficult to gather together as the winds. One of the most important facts, as to whether labor were abundant or not in a colony, could not be ascertained; opinion being nearly always divided on the subject. The employer contends it is scarce—the employed, that it is too plentiful. In Australia, for several years, the gold-fields have induced laborers to emigrate; but, in new colonies, without such objects to draw immigrants, they must be encouraged by the hope of good wages, and the expectation of being able to acquire land at a low rate. Cheap land and high wages are the inducements to emigration, and Mr. Wakefield's aristocratic system of a high price and low wages would attract but few, comparatively, of the working classes, who must ever be present to found a free colony. It is true that Spain, and even Britain, have founded great settlements without this necessary element, but, in the one case, there was already a semi-civilized race of aboriginal natives, who were turned into the slaves of the colonists; and in the other there were a number of degraded beings who had forfeited their liberties, and were made to labor for their fellow-men of a higher social grade. The greatest misfortunes arose from both systems, and no nation ought to found colonies with any other than free and virtuous emigrants.* But Mr. Wakefield's plan would not even be suitable for the monied and aristocratic class. The working man purchases land to settle upon, and would rather have 50 acres of really good quality, than 500 acres of poor land; the sufficient price would not interfere with him so much as with the capitalist, or aristocrat, who purchases for investment, who requires a considerable extent for the money about to be invested. Mr. Wakefield's sufficient price is, therefore, as much cal-

* See No. 4 "Australian Sketches," II. Series, in *Tait's Magazine*; and "Essays on Colonization," article Transportation, by the author of this history: Smith, Elder, and Co., London.

culated to prevent capitalists and gentlemen from emigrating as artizans and laborers.

The applying of the price of waste land to bring out labor to cultivate it, which some have supposed to be part of Mr. Wakefield's scheme, but which was first brought forward by Mr. Galt, is unobjectionable. Care must, however, be taken in bringing this principle practically into application, neither to charge much above, nor much below, the rate for the land at which labor sufficient to cultivate it could be introduced; by charging more for the land the laboring class would be injured, by charging less the harm would fall on the land owner. But any definite principles that could be laid down would be disarranged by speculation, so that the value of land would be continually changing, being governed by the value of money and other relative causes, which Mr. Wakefield has totally overlooked. The resources of the colonies, however, are ample, if properly applied, for all purposes of national colonization; the plans of Mr. Wakefield and other crude theorists are more likely to limit than increase them, and deserve to be received with the utmost caution.

In consequence of the selfish representations of the South Australian Company, land was raised, in 1842, to 20s. an acre, which, in those days, was a prohibitory price, and the whole, or nearly the whole, of the energy and capital available was forced into the pastoral branch of industry. In a few years the squatters of Port Phillip numbered about 800, and formed the only really influential class. That many who came over from the opposite shores of Bass' Straits, or across the Murrumbidgee or Murray, from the middle districts of New South Wales, with the first instalment of sheep and cattle, were but half-educated persons is not denied. After the district was fairly opened a large number of young men of good family, induced to emigrate and settle, embarked in squatting pursuits. Many commenced with their own capital, and upon their resources, but a considerable portion of them were agents for large firms in Britain and the adjoining colonies.

The early squatters had to contend with many difficulties, dangers, and privations. To succeed they had to be adventurous, and to wander far away into the untrodden wilderness in order to obtain

ground which was still unoccupied, on which to graze their flocks and herds. They lived in semi-barbarous regions, far from civilization; they had no society, and, generally speaking, saw no person from year to year, with the exception of a few ignorant shepherds; their habitations were usually miserable huts of bark, hardly a protection from the intense heat of summer, or the rains and cold of winter; they had to combat with savage tribes of aborigines, and to guard against the depredations of the wild animals of the wilderness; they were ignorant of the character of the country and the climate; they were unable to grapple with the strange diseases to which their sheep were liable, and often saw them die by thousands; they were on the verge of ruin from ignorance of the system of business carried on in new colonies, such as high rates, extended credits, and scarcity of flour and other stores; and at last, after a hard struggle, many of them were irretrievably ruined by the severe financial derangements of 1842 and 1843. When the young settler had wandered about the country for months with his flocks, seeing abundance of fine country over which they grazed, but which was all claimed, and, after boundless trouble, at last found a spot on which to rest his weary head, he found no disposition on the part of his distant neighbors to befriend or oblige him. Instead of being gregarious, like most other civilized settlers, the Australian squatters desired to be as far as possible from companions. Instead of affording information they were cool and uncivil, always jealous of new settlers, as occupying country which they had hoped to keep and use when their flocks and herds increased. Those who were fortunate, by caution and industry, managed to overcome the preliminary difficulties, but very few of those who were the real pioneers of Victoria reaped much advantage from their exertions. Most of them had bought their sheep at from 20s. to 30s., and they started with the wool at 2s. a pound; in a few years sheep were at 1s. 6d., and wool had fallen to 9d. or 10d. Agents, merchants, bankers, were, all alike, unable to assist, and, friendless and forlorn, the great majority of the poor squatters were left to their fate. A number of the real discoverers of the fine grazing lands of the interior are in their graves or wanderers in other lands. The respectable, and often highly educated, emigrants, sons of the best families in Britain, took their places, and

became the owners of flocks and herds; they erected comfortable houses, laid out fields, gardens, vineyards, and carried many of the appliances of high civilization into the interior. The pioneers of Victoria—the rough champions of the bush, to whom society is indebted for a new field for industry, who took the land and held it against all comers, like the knights at tournaments in ancient days; who opened and cleared the way to fortune for thousands, are nearly all forgotten. This country, however, is deeply indebted to them, and their remembrance ought to be held in honor.* After the great crisis

* The following information, respecting the Squatting interest, will be interesting:—*From the Port Phillip Gazette, 7th September, 1845.*

SQUATTING STATISTICS.

The *Gazette* can, without egotism, assume that, for the last three years, it has been the only authority that can be relied upon for statistical data—particularly where the squatting interest is concerned, and finding our contemporaries have been trying their hands at making up the squatting returns without success, we consider it a duty we owe to ourselves and the squatters to furnish, as early as possible, our usual half-yearly correct return, which we have, with great labor, compiled from the data furnished to the various Commissioners. It comprises the number of acres in cultivation on Crown lands, the extent of the population residing thereon, distinguishing the sexes, and also whether they are free or bond; the number of horses, sheep, and cattle depasturing on Crown lands, and the amount of assessment paid thereon. The returns below show, beyond doubt, the wealth, and consequently, the influence, of the squatters, which is fast increasing. It must be understood that the returns refer solely to Crown lands, the number of acres in cultivation, residents on private property, and stock depasturing thereon, having no connexion with the Commissioners' returns. It will be seen that the assessment paid for the last half-year amounted to £5,840 8s., whilst that of the previous half-year was £6,110 8s. 7½d., showing a yearly return of £11,950 16s. 7½d. The probable expense of collecting which, with all the various duties incidental thereto, does not exceed £6,500, leaving the handsome balance of £5,000 in favor of the Government, which goes to Sydney, there to assist in the payment of salaries to those who are the enemies of this district. The following is the return:—

DISTRICT WESTERN PORT.—F. A. Powlett, Commissioner. Acres in cultivation, 2,586; horses, 1,974; cattle, 41,021; sheep, 618,392. Population—males, free, 1,659; females, 473; males, bond, 43; total, 2,174.

DISTRICT PORTLAND BAY.—Foster Fyans, Commissioner. Acres in cultivation, 2,286; horses, 2,906; cattle, 55,136; sheep, 1,085,466. Population—males, free, 2,408; females, 586; males, bond, 4; total, 2,998.

MURRAY DISTRICT.—H. W. H. Smythe, Commissioner. Acres in cultivation, 1,291; horses, 1,397; cattle, 60,682; sheep, 166,978. Population—males, free, 589; females, 178; males, bond, 50; total, 727.

GIPPS' LAND.—J. C. Tyers, Commissioner. Acres in cultivation, 264;

in 1843, and the application of the boiling-down system, squatting became a very lucrative branch of industry; not only did the boiling-down of the sheep into tallow place a steady value upon them, but wool again advanced; the new squatters had none of the incumbrances of the original settlers, who had purchased their sheep partly on credit, and at high prices; they had become acquainted with the climate and skilful in the management of stock. When they had overcome the preliminary difficulties of settlement they

horses, 595; cattle, 29,191; sheep, 78,319. Population—males, free, 307; females, 71; males, bond, 20; female, 1; total, 399.

COUNTY OF BOURKE.—F. B. St. John, Commissioner. Acres in cultivation, 749; horses, 348; cattle, 11,249; sheep, 73,831. Population—males, free, 362; females, 198; males, bond, 1; females, 1; total 562.

COUNTY OF GRANT.—E. B. Addis, Commissioner. Acres in cultivation, 867; horses, 360; cattle, 4,897; sheep, 128,414. Population—males, free, 348; females, 129; total, 477.

GRAND TOTAL.—Acres in cultivation, 8,043; horses, 7,580; cattle, 202,170; sheep, 2,151,400. Assessment on the above, £5,840 8s. Population—males, free, 5,673; females, 1,635; total, 7,308; males, bond, 117; females, 2; total, 119.

NAMES OF SQUATTING SETTLERS.

COUNTY OF BOURKE.—James Frazer, Mrs. August, G. Jones, Robert M'Kie, N. M'Lean, James Brown, John M'Kean, James Lawler, Beswick, F. Liardet's Hotel, Nicholas Were, David Young, Thomas Wilmshire, Levein, Trustees of the late James Scales, Denny and Yuille, James Pinkerton, T. and H. Pyke, John Aitken, Sir John L. Pedder, Brodie Brothers, Joseph Solomon, Wright's Inn, S. and W. Jackson, Mrs. A. Greene, James Malcolm, Clarke, W. and G. Headlam, Stoke's Inn, George Evans, Brock and Sons, George Newsom, T. Steel, Steel, John P. Fawkner, J. G. and P. Cain, James P. Main, W. Piper, W. Robertson, John S. Hill, Riddell and Hamilton, Ross Watt, Dennistoun, W. H. Bacchus, Williamson and Blow, Kirk and Harlin, Arundel Wright, J. Simpson, William Kippen, S. Staughton, J. Sherwin, Aitken, George Greeves, Richard Wedge, Henry Barber, John C. Wrede, William Ronald, George Sherwin.

COUNTY OF GRANT.—John Brown, J. C. Langdon, Thomas Sproat, William Irons, F. Fenwick, Day and Tulloh, Willis and Swanston, Alexander Thompson, William Neal, John M'Vean, Michael Fallon, Gundry, Henry Tate, W. Hindhough, John Raven, Thomas Warner, J. Walsh, Henry Hopkins, J. Austin, T. Austin, George Mercer, John Kiddle, John Airey, A. Stewart, A. M'Gillivray, Costigan, J. Learmonth, G. and J. Hope, James Bruce, Rodger Kelsall, E. Griffin, J. Tolson, Ormond's Inn, Clyde Company (George Russell and Company), R. Taylor, George F. Reade, Steel's Inn, M'Leod, Hector N. Simson, John Wallace, Cowie and Stead, William Patterson, H. Atkinson, C. E. Labilliere, Simon Staughton, Charles Swanston, G. Synnott, North and

succeeded beyond their most sanguine expectations. The young man just from home and school, who had been able to start with a solitary flock, soon found himself the possessor of a large property in stock, and began to make himself comfortable; he was now independent, with nothing in prospective to alarm him, and in the possession of all the solid comforts of life. If he could only keep his flocks free from the three great scourges of Australia—scab, catarrh, and foot-rot—he was on the high road to fortune. The

Grap, G. Connor's Inn, Grap and Son, Wedge and Company, D. Coward, Moor and Griffith, W. H. Bowden, N. H. Fenwick, J. Bates, Marcus Synnott, Elias Harding.

COUNTY OF NORMANBY.—George Adams, William Learmonth, Rogerson, George Coghill, Thomas Norris, John Cox, J. Crawford, jun., W. Carmichael, Andrew Brown, Buckley, A. Kennedy, Coldham Brothers, A. Cameron, Wm. Thomson, S. Winter, George Winter, Robertson, Francis Henty, John Henty, Hutchinson Brothers, Henry Miller, C. Hutton, R. M'Donald, Stillard and M'Donald, M'Kenzie, M'Donald's Inn, Henry Monro, D. M'Intyre, M'Ray and M'Lean, Lewis's Inn, A. Crawford, A. Rose, James Dixon, Lawrie, James Kitson, Best's Inn, P. Lynch, Hazlewood, Henty's Melting Establishment, S. G. Henty, J. Walker, John Kennedy.

PORTLAND BAY DISTRICT.—Crutch, William Roadknight, F. Dewing, Wesleyan Mission Station (Buntingdale), George Armitage, Beale and Frebeck Inn, Charles Airey, Robert Dennis, Duncan Hoyle, H. and A. Murray, Boyd and Co., Foster Fyans, M'Kinnon, Mack, D. E. Stodart, Calvert and Bell, Hawkins, Brown's Inn, Fred. Duvernay, James Austin, Aitchinson Brothers, Ferrars and Bingley, Cunningham, John Kimbers, M'Millan and Wilson, T. W. Downie, William Rowe, Synnott, Oliphant and Robertson, Brown, Tennant and Lyon, D. Hoyle, Peter Hardie, Gibb and Gordon, A. Herriot, M. Linton, J. T. Smythe, John Learmonth, S. P. Winter, W. C. Yuille, A. W. Scott, Veitch's Inn, Peter Inglis, Taylor and Cornish, W. J. T. Clarke, Learmonth, Gregory's Inn, Russell and Simson, T. and S. Learmonth, Donalds and Hamilton, G. Coghill, A. Goldsmith, Macredie and Gottreaux, Thomson and Cunningham, P. Black, Wright and Montgomerie, Henry Anderson, Johnson and Co., Chirnside and M'Nab, Elmes and Lang, John Brown, Stephens and Allen, John Hastie, J. and P. Manifold, Daniel Curdie, Hill's Inn, Wm. Adeny, J. Ware, Cole Brothers, P. M'Arthur, D. and A. Craig, Neil Black and Co., William Ewing, Richardson, Thomson, James Webster, Adams, Fairie and Rodger, Forbes' Inn, Mat Hall, Davidson's Inn, E. H. Bostock, Lachlan Mackinnon, Gibb and Anderson, M'Pherson, Patterson, Johnston and Co., Stevens and Thomson, Steele, A. and C. Campbell, Cooper and Thomson, William M'Gill and Co., J. D. Wyselaskie, Hopkin's Inn, William Ewing, A. and J. Dennistoun, Brown, Charles Payne, Gibson's Inn, J. F. Palmer, M'Arthur Brothers, Burchett Brothers, Scott and Gray, Hutchinson and Kidd, Adolphus Sceales, Cameron, D. and C. Kennedy Finn's Inn, Robert Martin,

squatters have mostly been a highly respectable, well educated, and industrious class; nor did they originally betray the grasping disposition of the Sydney pastoral cormorants, however anxious they may have been about the uncertain tenure on which they held their lands. They claimed no rights in the soil, otherwise than as squatters; and it was not until after Messrs. Boyd, Wentworth, and other stock-owners, in New South Wales had commenced their great crusade in favor of fixity of tenure, that their compatriots in Port

J. Pollock, E. Parker, Chirnside and Co., Henry Dwyer, H. S. Willis, R. H. Bunbury, D. C. Simson, Urquhart and Glendinning, Sherritt and Co., Sterling and Fairbairn, Hamilton, A. Donaldson, James Blair, George Armytage, Steele, F. A. Splatt, Willis and Swanston, E. Bourke, W. F. Splatt, Robertson, Watson, Corney, J. W. M'Culloch, Murray and Addison, J. G. Robertson, Edward Henty, A. Pilleau, G. Whyte, W. and J. Machonochie, White Brothers, Young and Turnbull, S. Cadden, Donald Kennedy, Weddell's Inn, Riley and Barker, Lochart, T. Winter, T. E. Tulloh, G. P. Ball, William Kippen, jun., Russell's Inn, A. French, James Brown, William Lonsdale, A. Donaldson, R. Clarke, John Ware, Wickham, Carmichael, Balfour, Robert Martin, John Johnson, James Cosgrove, J. Campbell, Strong and Foster, J. and W. Allen, Brock and Smith, Manning Brothers, Manifold, Smylie and Austen, Mount Rouse (Aboriginal Station), R. Chamberlain, Henry Leman, J. Dawson, Selby and Mitchell, Boyd and Company, J. A. Brown, Campbell, M'Knight, and Irvine, James Crawford, jun., Aplin Brothers, John Ritchie, Baxter, Cay and Kaye, Robert Mailen, Roderick Urquhart, H. Griffiths, G. Tierney, Nicholson and Higgins, Murray Brothers, James Kibble, M'Guinness, Charles Hutton, Scott Brothers, Ferrar's Inn, Neil, Black and Company, M'Kinley's Inn, Monro's Inn, J. M'Intyre, Bates Brothers, James Bielby, H. T. Miller, R. Urquhart, Eddie, Mrs. Scott, William Roadknight.

WESTERN PORT DISTRICT.—Bourne and Chisholm, Cuthbert and Gardiner, F. Munday, Martin, Atkins and Clarke, Rutherford, William Willoughby, W. Howe, John Barker, A. M. M'Crae, Jamieson's Special Survey, E. A. Walpole, A. B. Balcombe, John Brooke, Ben Baxter, Ruffey, O'Connor, James Leckey, R. C. Walker, W. K. Jamieson, Howey and Patterson, Watson and Wight, James Clow, Robert Briarty, John Dickson, Gardiner and Fletcher, W. and D. Ryrie, Henry Arthur, Thos. M'Combie, Armstrong and Ball, Robert Reid, D. and H. Hardie, W. Bamblett, W. and A. Mulcinah, Miller and M'Farlane, Howitt and Watson, E. Watson, Chenery and Goodman, John C. Aitken, H. Matson, Alexander Davidson, Archibald Cunningham, E. Cotton, G. S. Airey, John Cotton, John Murchison, R. M'Kenzie, J. Sutherland, Clarke's Inn, Young and Nicol's Inn, Edghill, William Hamilton, J. Hawdon, Ar. F. Mollison, Simmonds, Thomas Baynton, Robert Patterson, William Patterson, W. H. Nicholson, James Eagan, Bailey, Watson and Wight, Goulburn Protectorate Establishment, H. and P. Stevenson, Cowper, Henry Walker, M. F. Scobie, Edward Curr, Matthew and Betts, Patrick O'Dea,

Phillip began to reflect on their actual position. The orders in Council were not, however, procured through any influence which the Port Phillip squatters had brought to bear on the subject; and the majority were quite as much astonished as the other classes of the community when they first appeared in the *London Gazette*.

The first statesman that had his attention drawn to the peculiar position of the squatters of New South Wales was the Earl of Ripon, who entered into a deep consideration of the subject. He left

Alexander Sims, Charles Cowper, Bakewell and Shaw, Robertson, John Aitken, H. G. Bennett, Caldwell and Ross, Daniel Jennings, William Keith, Beauchamp, Joseph Raleigh, Brodie Brothers, James Orr, W. H. F. Mitchell, R. and F. Pohlman, Jeffries Brothers, Mollison, Clowes Brothers, J. Donni-thorne, Edward Dryden, Hawkin's Inn, Heap and Grice, Nicholson and Myers, Abel Thorpe, Bear and Dunsford, Brian and Williams, Boothe and Argyle, Bear and Godfrey, John M'Millan, Robert Forsayth, Alexander M'Callum and Co., James Cowper, Curlewis and Campbell, Campbell, J. H. Rowan, J. and W. Collyer, Rutherford and Grieve, Cay and Kaye, Foley and Cameron, J. Orr, Cook, Ellis Shore and Elliot, J. F. L. Foster, George Coutts, M. J. Stoddart, W. M. Hunter, Donald Cameron, William Barker, Alexander Kennedy, A. and C. Birch, J. C. Langdon, John Hepburn, Anderson's Inn, M'Niel and Hall, E. G. Bucknall, Dugald M'Lachlan, George Joyce, A. E. Wheatley, J. and W. Collyer, W. and J. M'Haffie, Robertson and Skene, John Catto, D. C. Simpson, E. Briant, J. M. Fisher.

GPERS' LAND.—Stratton and Company, E. Buckley, Collins, C. Lucas, H. Buntyne, M. Mason, Scott, Campbell and Frazer, F. Dessailly, sen., H. Pearson, Thomas Bloomfield, J. Reeve, D. P. O. Kedden, Turnbull, E. Hobson, Thomas Gorringe, William Bennett, M'Farlane, F. Desailly, jun., J. Foster, R. Thompson, Cunningham, W. O. Raymond, M'Alister, A. M'Millan, Blackburn, Dixon, and Jones, Thom, A. M'Leod, Jones, J. M. Loughman, M'Lean and Gillis, H. M. Merrick, John Curtis, Irelands, A. B. Spark, Curlewis and Company.

MURRAY DISTRICT.—Wardrop and Clarke, Chenery and Goodman, James Rowe, J. S. Griffin, A. Sergeantson, Watson and Hunter, Lochardt and M'Kenzie, J. and G. Thomas, John Brock, John Dixon, Messrs. Marshall, Archibald Thom, Guard and Perrott, Thomas Grant, J. H. Campbell, Thomas Brown, Mary Dempsey, Joseph Anderson, John Buckland, Robert Taylor, Daniel M'Kenzie, J. H. Webster, John F. Bury, H. J. White, H. Kent Hughes, James Purcell, Joseph Raleigh, Inn, E. Atkins, James Kirkland, Barnes and Holland, William Long, G. C. Curlewis, Thomas Clarke, W. F. Arundell, William Highett, James Malcolm, A. and C. Chene, Heap and Grice, Charles Ryan, Curlewis and Campbell, C. J. Burnett, Black and M'Kellar, Clark's Inn, Cheyne and Gibb, Redfern and Alexander, Edward Grimes, Messrs Clifton, John Vidler, Charles Cropper, M. F. Scobie, Middlemiss's Inn, Thomas Turnbull, Rowan, Owen, and Mullen, E. B. Greene, J. W. Chisholm, Thomas Chapman, Faithfull, A. Reid, William Clarke, Joseph

office before he could carry out any of the changes in the system which he had contemplated. The same principles were, however, so far entertained by Sir George Gipps, one of the ablest governors who has ever administered the affairs of New South Wales. His Excellency first commenced the intended alterations in the squatting system, by issuing a series of regulations, by which the occupiers of Crown lands beyond the boundaries of location were directed to pay a license of £10 for each separate station or run, even in cases where the runs might be contiguous. This code provided that no station within the meaning of the regulations should consist of more than 20 square miles of area, unless it was certified by the Commissioner that more land was necessary in order to depasture 4,000 sheep, or 500 head of cattle, which was the limit of stock allowed to be kept under a single license. On the same day his Excellency handed Mr. Icely* a series of recommendations, embodying his own views, for granting the squatters fixity of tenure; they were

* Mr. Thomas Icely, of Coombing, New South Wales, was, at this period an unofficial nominee member of the Legislative Council.

Docker, Messrs. Rowan, S. Shepherd, Edward Curr, Desauclose, Redfern and Alexander, Boyd and Co., O. Philpotts, James Reid, Hume, Messrs. Rowan, Joseph Bould, Benjamin Barber, Grey and Co., Crisp and Foord, J. Withers, Black Dog Inn, Brown and Clark, W. F. Baker, G. H. Barber, Paul Huon, David Reid, William Bowman, G. E. Mackey, Messrs. Johnston, John Hillas, Thomas Mitchell, J. Malcombe, G. Kinchington, James Templeton, Morrice and M'Kenzie, James Osborne, David Reid, Whitfield, H. N. Simpson and Co., C. H. Ebdon, Bonnegilla, David Wilson, Howe, Lockhart and Clarke, William Wise, Samuel Bowler, James Wilson, John Waite, W. H. Scott, Cowelong Station, Joseph Andrews, John Tooth, Estate of W. Shelly.

WIMMERA DISTRICT.—M'Callum, M'Loud, D. Coghill, Andrew Beveridge, Curlewis and Campbell, Thomas and J. J. Ham, Rutherford and Grieve, Cay and Kaye, Cameron and Foley, Orr, J. Harrison, Donalds, Wedge and Company, J. Horsfall, Thomson and Armstrong, Creswick Brothers, J. Harrison, Lawrence Roston, Campbell, Roston, William Rutherford, Colin M'Kinnon, J. Allan Cameron, Robertson, George Rutherford, Airey, Darnel and Nicholl, A. Stewart, Joseph Thair, M. Shanahan, Taylor and M'Pherson, Wilson Brothers, A. Scott, M'Guinness, Von Steiglitz, Darlot and M'Lachlan, William Patterson, Cameron, Ballie and Hamilton, Wilson Brothers, William Firebrace, George Urquhart, Riley and Company, Hope Brothers, C. P. Cook, Splatt and Pincott, Boyd and Company, Green and Kerr, H. S. Wills, D. C. M'Arthur, W. J. T. Clarke, T. Allan Cameron, Sinclair, R. H. Bunbury, Gibson.

published a few days afterwards in the Sydney newspapers, and transmitted by his Excellency to Lord Stanley, the colonial minister of the day, accompanied by an able despatch, dated 3rd April, 1844. In this document Sir George Gipps described the exact position of the question, and traced the various evils likely to spring from its continuance. In bringing forward his recommendations he started with the clear understanding that the minimum price of 20s. an acre for waste land was to be maintained; he said, "The squatting system in New South Wales will support a high minimum price of land, and the high minimum price makes the squatting system necessary." He declared that the occupiers of Crown lands ought not to be permitted to buy any portion of their runs at a less price than 20s. an acre, and that they should only purchase by auction, and for cash. He proposed to allow any squatter who had been for five years in occupation of a station to purchase a portion of his run, not less than 320 acres, provided the quantity of water frontage did not exceed a mile in length for every square mile of area, or 808 yards for every 320 acres. The sale was to take place by auction, but the improvements upon the land, when offered, were to be added to the upset price; and if any other person than the occupier became the purchaser, such stranger would be required to pay the value of the improvements in addition to the price of the land, and the Government would be under the necessity of transferring the sum so paid to the occupier of the station.

The reply of Lord Stanley is dated 30th January, 1845, and displays considerable ability and acquaintance with the subject. It would appear from this document that his lordship had been alarmed by the language made use of by Mr. Boyd and other extensive squatters (who had formed the Pastoral Association) in reference to the tenure on which they held their runs, and he expressed his intention of making a stand *in limine* against pretensions so unwarrantable. His lordship further expressed his approval of the contemplated alterations, and assented to the major part of the details by which Sir George Gipps proposed to work them out. As the new regulations were not brought into operation at this time, it would be unnecessary to enter into a more elaborate examination of Lord Stanley's despatch. This document, however, as well as the

despatch from Sir George Gipps, to which it was a reply, deserves careful consideration in arriving at the true meaning of the Orders in Council, which were founded, to a considerable extent, upon their recommendations. When Sir George Gipps reached England he was consulted by the colonial minister, and, had he lived, there can be little doubt that the Order in Council would have been a more complete document; but, unfortunately, he died in less than a year after his arrival in England.* The policy of Sir George Gipps was to circumscribe that growing feeling of security felt by the large squatters, who, prevented by a prohibitory price, from purchasing the lands of which they were allowed the use as freely as if they were their own *bona fide* property, began to talk openly of regarding them as such. Mr. Benjamin Boyd, at this period the largest squatter in Australia, occupying 381,000 acres, for which he paid only £80, stated, at a meeting in Sydney, "that, so long as he paid his license, he had a freehold interest in the land which he occupied." His brother, on another public occasion, made use of the remarkable quotation, in speaking of the squatters' tenure of the lands—

"It sounds more clever,
To me and to my heirs for ever."

Sir George Gipps deemed it to be his duty, before quitting his government, to declare to the people of the colony that her Majesty's Government would maintain its right to the Crown lands, and not suffer them to be kept in perpetuity, and at a merely nominal rent, by those who happened to be the first to seize upon them.

The Order† in Council was hailed by the squatters with no ordinary gratification; but it in no way altered the position of the occupier of Crown land in reference to his tenure, nor was it intended that it should. To the Crown he was a mere tenant at will before the Order was issued, and his position was very little altered afterwards, for, as the report of the Select Committee of the Legislative Council of New South Wales remarked, "It is the singular anomaly of these land orders that, while, as against his fellow-

* It is very remarkable that none of the writers in favor of extreme squatting views have ever referred to Governor Gipps' despatches.

† Sometimes designated "Orders in Council."

subjects, the actual colonist, or intending emigrant, they fortify the squatter with every muniment which can give permanence to possession, as against the Crown, they leave him as they found him—utterly defenceless.” It appears strange to an unprejudiced mind, that the occupiers of Crown lands should ever have been deluded into the belief that the Order in Council conferred any right upon them to hold their stations any longer than the Government thought proper. The Governor is there empowered to grant leases, in the unsettled districts, to such person or persons as he shall think fit, for any term or terms of years, not exceeding fourteen ; and, by the eleventh section of the same chapter, all persons who have been for one year in licensed occupation, at the time when the Order in Council shall come into effect, shall be entitled to demand such leases. The period of the lease is, however, left entirely to the discretion of the Governor, who may grant it for any term he thinks proper. By the ninth section, however, sufficient power had been reserved in the hands of the Government to protect the public from the threatened confiscation of the lands of the colony. It provides that nothing in the leases is to prevent the Governor from disposing of the land within the run of the licensed occupiers for any purpose of public defence, safety, utility, commerce or enjoyment, or for otherwise facilitating the improvement and settlement of the colony. The report already referred to justly remarked, in reference to this clause, “that words more explicit, and more comprehensive, to denote the absolute dependence of the squatters upon the Government, could not possibly have been employed.”* The Duke of Newcastle directed Mr. LaTrobe to place the more liberal construction, as regarded the requirements of the public, upon the words just quoted ; and it will be admitted by unprejudiced men that the sentence will bear a very liberal interpretation. Those who are familiar with the sentiments of Sir George Gipps, as recorded in his various despatches and memoranda, upon which mainly those regulations were founded, must be aware that it never was his intention that the squatters should keep the public lands one moment longer than purchasers could be found for them. It is true that a

* The report of the Select Committee of the Legislative Council of New South Wales.

detached portion of one of Earl Grey's despatches has been brought forward to prove that Government intended that the lands in the unsettled districts should be absolutely given to the squatters for the full period of fourteen years. But it must be remembered that it was Earl Grey's predecessor, Lord Stanley, who had mainly matured the plan detailed in the Order of Council; and it may fairly be supposed that Earl Grey had not given the subject that amount of consideration which would fairly entitle his opinion to an equal weight with that of either Lord Stanley or Governor Gipps. It is important, moreover, to observe, that, upon the occasion when the Queen in Council framed the famous Order in Council, there were present—Her Majesty, and his Royal Highness Prince Albert; the Lord President, Lord Privy Seal, and Lord Chamberlain; the Earl of Auckland, Viscount Palmerston, the Bishop of London, and Lord Campbell. It is hardly fair for the advocates of squatting rights to set up the opinion of the colonial minister against a document equivalent to an Act of Parliament. They have argued that Earl Grey's despatch must be taken as an interpretation of the Orders in Council. It is unfortunate for them that that nobleman was not present when the document was framed, and could not be in a position to interpret the meaning of those who framed it. His opinion, therefore, although colonial minister, has no legal efficacy, and is worth no more than that of any other individual who may think fit to consider the question and express his views.

The 9 and 10 Victoria, chap. 104, gives her Majesty in Council power to make and establish all such rules and regulations, as to her Majesty may seem fit, for the purposes aforesaid, and that all such Orders in Council shall have the force and effect of law in the Colonies. The Order in Council, therefore, must stand *per se*; and be interpreted upon its own merits, exactly the same as if it were an Act of the Imperial Parliament.

The official notification of the Order in Council was received by the Government about four months after it had been agreed to; and its provisions were partially acted on. Applications for leases were received at both Sydney and Melbourne; and regulations for the disposal of new and vacated runs, and for the transfer of runs already occupied, were issued. The Act 11 Victoria, No. 61, for

appointing Commissioners to examine and report upon disputes respecting boundaries of runs between claimants of leases, was passed. The recognised claimants were allowed to occupy the Crown lands in all cases where the general interests did not demand their final appropriation for other purposes, and they were allowed to purchase, under pre-emptive rights, their homestead sections or other portions of their runs, but both the local and Imperial authorities were unwilling to issue leases. There existed so many debatable points, and the claims of the squatters had become so extravagantly unreasonable, that the matter was allowed to continue in abeyance, both parties being unwilling to risk all on a final issue. Then the vast discoveries of auriferous wealth, and the great flow of population which followed, demonstrated to all unprejudiced minds that the colony must necessarily sustain a serious injury if the Orders in Council should be interpreted in the way that the squatters appeared to desire, which would, in fact, shut up the public lands from legitimate occupation by the people. The squatters at this time held meetings, and ostentatiously asserted the most extravagant claims; they issued garbled and one-sided statements of their case, not that they knowingly desired to deceive the public, but because their interest made them adopt a narrow and ungenerous view of the matter in dispute. At last an appeal was made to the Imperial authorities, and the reply of the Duke of Newcastle virtually destroyed those sanguine hopes of self-aggrandisement in which the extreme squatters had for years indulged. The land problem, about which so much has been written and spoken, is easy of solution; indeed, it will in time solve itself. The land ought to be sold as rapidly as possible; and free emigrants encouraged to settle in the colony. The Legislature has no right to dispose of the land, either on lease or in fee, for less than the fair value; to do otherwise would be to rob the people, to whom the lands belong. The fair price in fee can only be settled by calculations, made on sufficient data, by persons conversant with the colony, and the equitable rent is a fair interest on the purchase-money. The value of land in the colonies will vary according to circumstances; when a country is first occupied, and there is no settled population, the land is next to valueless; or, at least, whatever value it may have is prospective. Land is, in fact,

but an element of value, and must be combined with population and capital to be productive of any benefit to the holder. As a colony becomes peopled, and its physical resources are developed, the exchangeable value of the land must necessarily expand; and the minimum upset price should have an affinity to the particular state of progress in which a colony happens to be at any given time. It must not be overlooked that, the main difference between an old colony and a new is, that there is abundance of land not alienated in the latter; it is the hope of obtaining a portion of this land, and being able to settle comfortably upon it, which induces persons to expatriate themselves, to leave the comforts of high civilization and the society of friends, and endure all the discomforts of a new and partially civilised country. The statesman should be as careful to guard against sacrificing the lands below their fair value, as of not selling them fast enough for the requirements of legitimate colonisation. And here it may be well to remark that, while those who are inclined to settle upon the soil as cultivators ought to be encouraged, such as simply desire to purchase land on speculation, to allow it to lie unproductive, waiting for a market, ought to be checked—as standing in the way of the national interests, and the general progress of the country. The waste lands of the colonies are the most valuable public property which the nation can possess; as they are a guarantee for the comfortable sustenance of a rapidly-increasing people, and all legislation connected with them ought to be carefully considered. It is very much to be regretted that Mr. Wakefield's restrictive plan of colonising should have found any favor with our legislators, for it is neither in accordance with sound sense, nor correct political economic principles. It is high time that our statesmen should take enlightened views of the subject, particularly in those colonies, where, by the new constitution, the sole direction of the land is vested in the local parliaments.

CHAPTER XI.

THE petitions of Port Phillip for separation neglected—Great irritation of the public mind—The Superintendent discovered to be antagonistic to the independence of Port Phillip—The Town Council take his conduct into consideration—Great indignation meeting to petition for his recall—The general election of 1848; and the feelings of the electors against sending members to misrepresent them in Sydney—The non-election movement was conceived and carried out—The election of Earl Grey for the town of Melbourne—The sensation in New South Wales—Issue of new writs for the district, and place of nomination removed to Geelong—The second nomination for the district.

PORT Phillip was ready to assume her new name and the responsibilities of self-government. The material for forming a local legislature was at hand, and the people had respectfully petitioned the Throne and the Imperial Parliament for separation from New South Wales; they had been amused by vague promises, and the year 1848 had been long entered upon without any definite arrangements for admitting of the dismemberment of the country and the erection of the southern district into an independent colony. Nearly every class now exhibited symptoms of dissatisfaction; all the true friends of the district perceived that its best interests were being sacrificed, that its memorials were trifled with, and that it was the recipient of a much greater share of injustice than any other community had ever experienced, much as Britain had been in the habit of ill-treating and neglecting her colonial possessions. The systematic misappropriation of the revenues of the district was, in a particular manner, calculated to irritate and annoy the colonists, who were naturally most indignant that they were drawn out of their local treasury, and forwarded to Sydney, to be appropriated towards the advancement of public works there, while, at the same time, the money was most urgently required in the locality where it had been contributed, to promote the development of its resources. In the previous year the monstrous injustice of this spoliation was more apparent, in consequence of the Legislative Council having refused a motion, in the month of

August, for separate returns of the revenue and expenditure of Port Phillip; and the colonists believed that these documents were refused because they would have exhibited a series of injustices to their district which were unparalleled in the history of British colonisation. But it must be observed that, not only did the Legislative Council refuse to vote funds for public works in Port Phillip, but that even when sums were legally appropriated, the executive Government declined, upon one pretext or another, to expend them; and, as the money did not lie over and accumulate for the benefit of the district, as it ought, in accordance with constitutional law, to have done, the impartial reader will at once perceive the unfair means adopted to plunder Port Phillip. The amount of the money thus voted, and not expended, for public works within the southern district, may be correctly quoted from official returns at about £60,000 sterling.

The Superintendent, Mr. LaTrobe, was, for some time, thought to be blameless in this system of injustice; and such an impression might have been entertained to the present time, had not certain official papers, most unfortunately for his character, been published, in which it was made apparent that he had used his interest to prevent many of those sums from being expended. In 1846 the City Council of Melbourne passed two resolutions, having reference to the unexpended moneys due to the Port Phillip district.* The Superintendent, in handing the petition of that body into the hands of his Excellency, also gave in a letter written by himself, in which he argued against their prayer. This paper was dated, Sydney, 22nd September, 1846, and, happening to be published in the

* The first was moved by Mr. M'Combie, seconded by Mr. Fawcner, and carried—"That the Town Council of Melbourne do petition against the unnecessary delay which has occurred in the erection of the various public buildings in the town of Melbourne, for which the money was voted last Session of Council:—Police Office, £824; Powder Magazine, £2,000; Lunatic Asylum, £1,000."—*Town Council Proceedings for 1846.*

The second was moved by Mr. M'Combie, seconded by Mr. Fawcner, and carried—"That an humble address be presented to his Excellency the Governor, praying that the principal, as well as the interest, on such sums of money as have been granted for the district of Port Phillip, and are still unexpended, may be granted to this Council, to aid in repairing the streets of Melbourne."—*Ibid.*

following year, excited the utmost indignation in Melbourne. The following passage was particularly censured :—"And, lastly, possessing within herself, for the present, neither the experience nor the means of prudently devising, or properly executing, many important works highly conducive to the prosperity and comfort of the inhabitants, she has had necessarily to await a period of greater maturity, and more settled and manageable principles of internal government, before the application of these funds, though actually at command, could be undertaken."

It could not be expected that Port Phillip would rest satisfied with Mr. LaTrobe, as the chief executive official, after this letter had been made public. It was his duty, when the money was voted for a particular purpose, to appropriate it immediately ; instead of doing this, however, he connived at the injustice of allowing those grants to lapse, and recommended that that illegal and unfair system should be pertinaciously continued. The colonists saw pretty clearly that his mind and his policy were alike narrow, and there were none in the district who did not desire to see him removed from his office, unless, perhaps, the few government officials and the little clique who were countenanced and supported by him. On the 15th June, 1848, the following motion was submitted to the Town Council by Mr. M'Combie :—"That the Legislative Committee be instructed to prepare an humble petition to her Most Gracious Majesty the Queen, praying for the removal of his Honor Charles Joseph LaTrobe, Esq., from the office of Superintendent of the District of Port Phillip, on account of his systematic mismanagement of the money voted for the service of the province ; his neglect of public works of paramount consequence ; and his repeated breaches of faith in his official transactions with this Council, in matters of high public importance." A very long and interesting debate ensued ; and an amendment, moved by Mr. Armstead, and seconded by Mr. Moor, that the motion be considered that day six months, was lost, and the original motion affirmed by nine votes to five.* A pretty full report of this interesting debate will be found

* For the motion—Aldermen Condell, Bell, Greeves ; Messrs. Annand, Clarke, Johnston, Kerr, Murray, and M'Combie. Against the motion—The Mayor (Mr. Andrew Russell), Messrs. Armstead, Campbell, Moor, and Smith.

in the *Port Phillip Gazette* of the 19th June, 1848 ; the charges upon which the motion was founded were substantiated ; and, although Mr. Moor, who was a clever lawyer, made as able a defence as could, perhaps, under the circumstances, have been put forth, yet his attempts to excuse and palliate the conduct of Mr. LaTrobe were unsuccessful. The vote of the Town Council, which was, at this period, the only representative body in the district, had very great weight ; indeed, many of those who have been prominent politicians in Victoria were, at some period of their career, members of that board. So completely were the sympathies of the people in unison with those of the majority of the Town Council, that a requisition, signed by seven hundred colonists, was presented, about a week afterwards, to the Mayor of Melbourne, requesting him to convene a meeting, in order to lay a petition for the removal of the Superintendent at the foot of the Throne. In compliance with this requisition, the Mayor convened a meeting for the 3rd of August, to take place opposite the Court-house, near LaTrobe street. This was the spot where the elections were usually held ; and here a large hustings was prepared for the occasion. It was known beforehand that the meeting would be a great success ; and it was remarked that the Superintendent and his adherents should put up prayers for rain, in order to damp the ardor of the indignant people. The day was all that could be desired by the most ardent supporters of the Superintendent ; for the rain fell in torrents. The result was, therefore, the more mortifying to the Government, for at least three thousand persons arrived to take part in the proceedings of the day. The Mayor was present, but the chair was occupied by Mr. McCombie, and the following gentlemen took part in the proceedings :—Messrs. Newman, Fawkner, Annand, Young, Johnston, Robertson, and Bingley, and the motion for the petition was carried unanimously ; only one solitary hand having been held up against it. The meeting appointed a Committee* to obtain signatures, and transmit the document through the proper official channel to her Majesty, and quietly dispersed. The Secretary of State for the Colonies returned a most courteous reply to the petitioners ; but their prayer was not granted. The Superintendent had made him-

self so obsequious to his direct superiors in Sydney that the Imperial Government threw its protecting mantle over his shoulders. There have been many of those anomalous cases in the Australian colonies prior to the introduction of responsible Government; and no official, representing the views of the English Cabinet, ever deemed the desires of the colonists worthy of a moment's consideration, when they were in opposition to the wishes of the official who had sent him instructions from a small office in Downing street. Sir William Denison might be brought forward as a notable instance of this; for, although he made himself so unpopular in Van Diemen's Land, by carrying out the orders of the Home Government in reference to transportation, that his name was execrated throughout the length and breadth of the land, and petition upon petition was sent home for his recall, he was yet favored so much by the Imperial authorities that he was continued in his government against the wishes of the people; and, when an opportunity arose, was nominated Governor-General of the Australian Colonies. The only official in the Colonial Office who took much interest in the details of Australian affairs occupied no higher position than that of a clerk; he was an able man, but partial to prerogative, and did not understand that the *vox populi* could exist in a colony sixteen thousand miles distant from Britain. It was, indeed, impossible that a Secretary of State, who was often but a brief period in office, could make himself acquainted with colonial subjects. He was a Cabinet Minister, and had to attend to his parliamentary duties; and it was not surprising that the memorials from Port Phillip were treated with neglect. At this crisis in the history of the colony an event occurred, which aroused considerable interest in Britain, and hastened separation; its details and results will form the remaining portion of this chapter. It is but proper to bestow a little attention on this important epoch in our history, as the motives of those who carried out the non-election movement have been maligned, and its important effects have been either systematically concealed or lightly touched upon.

* The following persons formed this important Committee:—Drs. Thompson and MacArthur, Major Newman, Messrs. Rankin, Annand, M'Killop, Young, Webster, Bingley, Fawcner, and M'Combie.

It has been already stated that many of the most intelligent colonists were of opinion, at the time the representation in the Legislative Council of New South Wales was granted to Port Phillip, that the people ought not to have accepted it. Events soon arose which demonstrated that this view was correct; when Port Phillip complained that she had been systematically plundered, she was curtly answered that the revenues of the entire colony were appropriated by the representatives of the people. The irritation of the public mind can be easily imagined at this particular period; the loss of their revenues was not a financial question alone—it was a social and religious question as well. The money going away to Sydney was that portion of the hard-earned wages of the people which they had contributed to the common weal; and was the price of education, religion, and, in fact, of every thing that constitutes moral and physical progress. The system of handing over the revenues of one settlement, totally independent in geographical position and in public feeling, to another at a considerable distance from it, was utterly against the broad maxims of justice and the constitutional principles of Great Britain, which have ever been—that public revenues can only be appropriated to the expenses of the Government of those from whom the money is extracted. Had the Port Phillipians taken up arms to right themselves, they would not have been more blameable than the New England colonists; the only difference would have been this, that the money of the latter was demanded for Imperial objects, and that the revenues of Port Phillip were allowed to be taken by another settlement with the cognizance of the Imperial Government. Indeed, the case was ten-fold more cruel; because, in the American colonies, taxes only were imposed, which were not objected to so much on the ground that they were oppressive as that they were unconstitutional; while, in the case of Port Phillip, the actual revenues were seized upon, and the progress of the settlement retarded. The just indignation and clamor of the colonists at this system of spoliation was further aggravated by rumors which had prevailed for a long time, to the effect that a considerable amount of corruption prevailed amongst those who were connected with the local government. This charge had been clearly made by Mr. Fawcner, one of the speakers at the

public meeting already noticed ; and, upon a notification appearing in the *Government Gazette*, signed by the heads of the various departments, denying the truth of the assertion, that gentleman published a letter in the newspapers, asserting that one of the persons signing the said document, who had been Police Magistrate, and who was, at this time, one of the Commissioners of Crown Lands, was guilty of the charges. An action for libel was commenced ; but, when it was tried, the charges were so clearly substantiated that no verdict could be obtained. The jury was divided in opinion, eight being in favor of the defendant, and only four for the plaintiff ; and even the minority were only for giving nominal damages. The charges were, therefore, morally proven ;* and the official—whose name we refrain, for the sake of his family, from publishing—was compelled, by the force of public opinion, to leave the colony. It appeared that the Superintendent had been made acquainted with some of the charges previously to the meeting at which they were reiterated, and referred to by Mr. Fawcner, as a matter of notoriety ; and that he had made no effort to stop such practices amongst his officials.

The general election for 1848 arrived, the Legislative Council having been in existence the full legal term of five years. With the solitary exception of Mr. J. F. L. Foster, there was no person connected with Port Phillip who came forward as a candidate for the honor of representing the District. Indeed, there was but one other candidate really before the public ;† and he had only just landed from England, and was connected with Sydney. The nomination took place on the 20th July ; there were about four hundred persons present, when a great deal of opposition was exhibited to sending any members to Sydney. Mr. Ebden, who had been returned as one of the first representatives of Port Phillip, informed the electors that “ he would have again solicited their suffrages, but that he could not any longer lend himself to the perpetration of what was only a farce ; Port Phillip was not, in fact, represented : she was misrepresented.” The feeling was so strong against sending up members to

* The Judge charged the jury that they must not only be satisfied that the pleas were substantiated, but that they were for the public good.

† William Sprott Boyd, Esq.

Sydney that Mr. Foster, who had been nominated, was, at the earnest solicitation of his friends and supporters, induced to withdraw, and the meeting dissolved; and the people at length determined upon using every effort to break the degrading tie which had, up to this time, bound Port Phillip to the chariot-wheels of Sydney. The nomination for the Borough of Melbourne was advertised to come off on the 25th of the same month; but, during the short interval that took place, the friends and supporters of the local Government had not been idle. It was resolved to place Mr. Foster in nomination, as it was contended by the friends of the local Executive that if only half a dozen votes polled for that gentleman—nay, if he were only proposed and seconded—he must, of necessity, be returned. A consultation was held, on the afternoon of the 24th, by one or two of the friends of non-election, and it was agreed to place some other person in nomination, in order to carry out the nullification principle; and Earl Grey was selected, as being a nobleman in so elevated a station that his nominal election must draw attention to the peculiar position of the settlement at Port Phillip. He was, accordingly, placed in nomination in opposition to Mr. Foster, and returned by an overwhelming majority. The adherents of the local Administration were very anxious to carry Mr. Foster's election; but every effort made was fruitless. It is a curious fact, moreover, that nearly every lawyer of eminence in the district stood forth opposed to this movement; and, when the Mayor, as Returning Officer, declared the state of the poll, two protests were handed in against the return of Earl Grey, which are curious, particularly the latter, which has attached to it several eminent legal names. They are very important historical documents, and deserve to be recorded in the history of Victoria.* The reports circulated by the supporters of Mr. Foster made it necessary for the non-election party to clearly set forth their reasons for returning Earl Grey; and a meeting was

* The following brief report of the proceedings at the declaration of the poll is copied from the *Observer*, then edited by Colin Campbell, Esq., and the ablest opponent of non-election in Port Phillip:—

THE DECLARATION.

The proceedings of the declaration of the elected member for the city of

held at the *Royal* hotel for that purpose. It was agreed to forward a memorial to his Excellency the Governor, praying that, during the pending of the reference made to the Secretary of State for the Colonies, the whole revenues of the district be reserved for its own wants.

The proceedings in the metropolitan city were not only opposed by Sydney, which, under the circumstances, might have been anticipated, but they were repudiated in Geelong, which was, at this period, next in importance to Melbourne; and a meeting was called there for the purpose of giving the electors an opportunity of

Melbourne, on Thursday last, were protracted to too late an hour for our issue of that day.

The Mayor, having stated the business of the meeting, read the following protests—

I, the undersigned, burgher of Bourke Ward, do hereby protest against the Returning Officer receiving any votes for the Right Honorable Earl Grey, on the following grounds:—

First—That Earl Grey, as a Peer of the British Parliament, cannot hold a seat in a colonial House of Legislative representation.

Second—That he cannot serve her Majesty in two distinct Legislatures.

Third—That he is not qualified according to the Act.

Fourth—That he is an absentee, and there is no one present to represent him to state that he will sit if elected.

(Signed)

SIDNEY STEPHEN,

26th July,

Barrister-at-law.

City of Melbourne, Bourke Ward.

To His Worship the Mayor of Melbourne.

We, the undersigned persons, being severally Electors for the City of Melbourne, do hereby protest against the return by you, as returning Officer for the City of Melbourne, of the Right Honorable Henry Grey, Earl Grey in the Peerage of Great Britain, as the member elected to serve in the Legislative Council of New South Wales, for the City of Melbourne, for the following reasons:—

First—That the Earl Grey, being a Peer of the British Parliament, as admitted by the voting papers, cannot hold a seat in a colonial House of Legislative Representation.

Second—That the Earl Grey cannot serve her Majesty in two distinct Legislatures.

Third—That the Earl Grey is not qualified according to law.

Fourth—That the Earl Grey is an absentee, and there is no one to represent him, to state that he will sit if elected.

Fifth—That the person described as the Right Honorable Earl Grey was put in nomination by Thomas M'Combie, and seconded by Augustus Frederick

expressing their disapprobation. By this time a very important question, in reference to non-election, had been raised; for the Constitutional Act was so worded that it was illegal for the Council to proceed to business if the number of members deficient by the non-return of writs was more than two. It was an object of the utmost importance to the Government to have members returned for the district of Port Phillip; and it was most adroitly managed by delicately flattering Geelong, and by taking advantage of its jealousy of Melbourne. The writ had been already returned without any names endorsed on it; and it was a considerable stretch of law to issue another, but the responsibility was incurred, and Geelong was appointed the place of nomination. Before the writs were issued it was reported that five residents would be found ready to go to Sydney, as real, *bona fide* representatives; but, when the time drew near that was to test this, it was found to be untrue, as only one, or at most two, residents, ready to undertake the duties, were found.

The second writ having been received, a public meeting was

Adolphus Greeves, and that no votes whatsoever were given for such person, all the voters having delivered their voting papers either for John Fitzgerald Leslie Foster, or for the Right Honorable Henry Grey, Earl Grey in the peerage of Great Britain, and the said Right Honorable Henry Grey, Earl Grey in the peerage of Great Britain, was not put in nomination or seconded; and we hereby demand the return by you, as Returning Officer, of John Fitzgerald Leslie Foster, Esquire, as the member elected to serve in the Legislative Council of New South Wales, for the City of Melbourne, he being the only legal candidate for whom votes were recorded.

Dated this sixth day of July, 1848. (Signed) Alexander A. Mollison, John Duerdin, Henry Moor, Thomas Black, M.D., William Firebrace, James H. Ross, William Stawell, John Bear, H. A. Smith, Sidney Stephen, John P. Smith, Musgrave, Charles Horn, J. B. Bennett.

The Mayor then intimated that decision with regard to the protests did not rest with him, but with the Government, and declared Earl Grey to be duly elected.

Mr. Foster addressed the meeting, defending the views of his supporters, as a more intelligent and talented body than his opponents, and expressing his firm conviction that, had a week's time been at the disposal of himself and committee, he would have been returned triumphantly.

Messrs. M'Combie, Ebdon, and Fawcner followed in support of the non-election principle.

The Mayor intimated that he had received a requisition to convene a public meeting, which he should accordingly do for Monday (last).—*Observer*, 3rd August, 1848.

called by requisition to the Mayor, on the 13th September, and about 150 electors met to consider what steps should be adopted. This meeting was addressed by Messrs. Curr, O'Shanassy, M'Combie, Colin Campbell, Johnston, Cole, Duerdin, Williamson, Annand, and M'Arthur. The resolutions agreed upon by the majority were in substance that, as representation in the Legislative Council of New South Wales was an utter mockery, it ought to be abandoned at once and for ever; that, in order to prevent *bona fide* representatives from being returned, the meeting approved of placing five members of the British Cabinet in nomination, to complete the return of the writ, and enable the Council to be legally constituted, and proceed to the ordinary business of legislation, while it would afford no pretext for oppression under the color of representative government. The meeting appointed George Ward Cole, J. S. Johnston, and J. P. Fawcner a deputation to proceed to Geelong, for the purpose of supporting the election of five cabinet ministers, in the event of the non-election principle not being unanimously carried out.

On the 21st September the nomination took place at Geelong; when Drs. Dixon and Palmer, Messrs. James Williamson, E. Curr, and Lauchlan Mackinnon, were placed in nomination by the one party, and the Duke of Wellington, Lords Palmerston, Brougham, Russell, and Sir Robert Peel, by the other; and the show of hands being in favor of the local candidates, the supporters of non-election demanded a poll. A great public meeting was also held in the Theatre, at which Capt. Fyans presided. It was addressed by Messrs. Fawcner, Johnston, and Curr, in support of the non-election movement, and Messrs. Wright, Harrison, and Duggan against it. The meeting was very discreditable to the opponents of separation; as, towards the conclusion, it became riotous, and, the lights having been extinguished, great confusion occurred. It is singular that Mr. Curr should have been one of those nominated, as he had, up to this period, been one of the most strenuous supporters of non-election, and had voted for Earl Grey for Melbourne. He certainly displayed no little inconsistency in thus allowing himself to be partially brought over to the side of the pro-electionists; at the same time, it is but just to remark that Mr. Curr was honest, but vacil-

lating, and easily swayed by the arguments of persons very much inferior to himself in mental capacity. Another extraordinary circumstance was that Mr. Foster drew back from the ranks of the pro-electionists, and refused to be placed in nomination; the reason assigned, at a public meeting, held in Geelong, by this gentleman, was that he did not think four *bona fide* representatives would be found to proceed to the Council Chamber in Sydney; and that some gentlemen, who had promised to allow themselves to be nominated, had changed their minds, and found that their business engagements would prevent them from being so long absent from the district. The pro-electionists triumphed in the district, and the local candidates were elected. This is not so very surprising, when all the circumstances of the case are taken into account. The Government were anxious, for many reasons, to carry this election; the candidates were anxious to be returned, with the exception of Mr. Curr, who was, most probably, indifferent to the result; those who voted for the peers used no influence, and they were actuated to decline to vote for local candidates solely from principle. The district of Port Phillip, however, declared, by a majority of 21 on the gross poll, that they were against misrepresentation in Sydney. The following table exhibits the numbers for election and non-election respectively :—

			Pro-election.			Non-election.
Melbourne	...	...	102	...	...	295
Port Phillip	...	...	230	...	...	58
			<hr/> 332			<hr/> 353

APPENDIX TO CHAPTER XI.

[The following letters, which were addressed, at the time, to Lord John Russell and Mr. Hawes, on the public meeting and the non-election movement, are historical documents; and the author deems no apology necessary for adding them to this chapter.]

NON-ELECTION VINDICATED.

TO THE HONORABLE B. HAWES, Esq., M.P., UNDER-SECRETARY
OF STATE FOR THE COLONIES.

SIR,—It is not upon every occasion that the people ought to intrude upon those

who have been entrusted with the administration of the government, but when events of political importance arise, it is necessary that ministers should be acquainted with the real feelings of the people; indeed, it must be obvious that a colony as a country may be traduced without just cause, and the real sentiments of the population, as well as the bent of their inclinations, may be purposely misrepresented, not only by their neighbors, but it may be by a small minority from amongst themselves; because no object, however excellent in itself, will ever command entire unanimity amongst a people, more particularly where there exists no national or patriotic feelings or prejudices to chain them together; and it cannot be unknown to you that a colony is often peopled by bands of adventurers from different countries, leaving little room for community of feeling or prejudice in such a gregarious assembly. I have felt myself imperatively called upon by public duty to come forward to explain the present position of Port Phillip, and the reasons of her refusal to return members to the Legislative Council of New South Wales. Our behaviour on this occasion has been loudly stigmatized by Sydney, and it is therefore highly necessary that you should be made fully acquainted with our real actions, wishes, and intentions.

It cannot be unknown to you that Port Phillip is, in regard to territorial position, an independent settlement. It was colonised in the first instance by persons from Van Diemen's Land, England, and Sydney, and it is not in any way territorially connected with the New South Wales Settlement—nay, although tacked on to it, and governed as if it formed an integral portion of it, it might with equal justice have been attached to New Zealand or the Sandwich Islands; Port Phillip has been for many years crying out against this unnatural and forced connexion, and well it might, the advantage being all on the side of Sydney, which has been maintained in a false position upon the revenues of her unwilling tributary. This money has been drawn from us under the color of representation, Port Phillip having six members to represent her in the full Council of New South Wales, while Sydney has had thirty; and the consequence has been, that in every question for the advantage of Port Phillip, her members, if they exerted themselves for their constituents, were left in the minority and laughed at, until at last representation in Sydney was viewed as so perfect a farce that no person would go up, and the seats were nominally occupied by Sydney merchants, being much worse than no representation at all, as it left the Colonial Office in Downing street to suppose we were represented, whereas the contrary was the case, Sydney doing with our revenues just as her members thought fit. The sum abstracted from the District in this way cannot be much, if any, under half a million of money—that which ought to have been expended in forming roads, erecting bridges, light-houses, wharves, and in building and endowing churches, schools, gaols, and other public works, in improving the sanitary condition of Melbourne, now a city of about 14,000 inhabitants, by introducing drainage, erecting water-works, &c. I may add—with strict justice—that the District continues to remain in the state that Nature formed it, which has seriously delayed its progress and prevented production; this great loss has been more seriously felt of late years in consequence of the increase of population, without any adequate

improvement in our system of Government, until our suffering has become intolerable, and it is necessary to the very existence of the Settlement that we should now have a Government and a local legislature thoroughly acquainted with our grievances, and anxious to relieve them.* The neglect of the moral culture of our rising generation, of the religious care of the district at large, and of the due administration of justice, must not be omitted here, all being of the utmost importance to this province. The money expended on these items, under the Schedules reserved by the authority of the Constitutional Act of the Colony, is chiefly appropriated for the benefit of the Sydney district, leaving Port Phillip unprovided with any adequate means for this purpose, which is, however, of vital importance to our moral and social welfare; and, while just and necessary measures were forwarded to the Legislative Council for the advancement of Port Phillip, they were almost invariably rejected with gross inattention and contempt,† and the lives and property of the colonists have been cruelly and unnecessarily perilled in consequence. The first General Election under the new Constitution was on the 20th June, 1843, at which there were three resident candidates elected, namely, Messrs. Condell, Ebdon, and Thomson—the remaining three, Messrs. Walker, Nicholson and Lang, being all residents of Sydney. The three Port Phillip residents remained in Council during one Session, but were then compelled to resign their seats, and, although a resident has occasionally been elected to represent our interests since that period, yet we have seldom had more than one, and never more than two, members who were *bona fide* denizens of Port Phillip. The district has been plundered of all its financial advantages, and even the funds which had really been voted for Public Works for this Province have been, by a genteel and systematic mode of swindling, generally *expended*, contrary to law and justice, on public works throughout the Sydney district.

Matters continued in this unsatisfactory state (the Port Phillipians' becoming most indignant at finding the Governor, the Superintendent, and the Legislative Council all opposed to their best interests) up to the close of the term of five years, for which period the said Council was authorised by the Act to exist—and it was then conceived by many to be the best course not to continue the farce of representation in the Sydney Legislature any longer. By returning members and taking a part in the farce of misrepresentation, we must have countenanced the spoliation of Port Phillip; and the colonists considered they could in no way forfeit the good opinion of Her Majesty's Government by refusing to countenance any longer the cruel robbery of their Province—and, accordingly, at the Nomination Meeting, prior to the late General Election, on

* Let me give one instance of the growing necessity of good government. So long as the land remained unsold in the interior of the district, persons bringing in their produce for sale could go through the country or "bush" wherever they could drive their drays; but now, where the land is sold and fenced in, the accommodation of the bush is not afforded, and the produce has to be brought through miles of quag-mire—and in some seasons communication is in this way completely stopped.

† There have been two Building Acts passed for Sydney; but when a Bill framed in this District for Melbourne was introduced by Mr. Robinson, the member for Melbourne, it was thrown out in two successive Sessions. An Act for the regulation of hackney carriages was also thrown out, although a similar measure had been passed for Sydney.

the 20th July, the electors of the Port Phillip district made known from the hustings their determination to send no members, on finding there was but one local candidate, Mr. Foster, who, however, withdrew at the request of the electors, and no members were returned. On the 25th of the same month, the nomination of a Member for Melbourne took place, in accordance with his Excellency's writ, when some parties who disapproved of non-election placed Mr. J. F. L. Foster, the gentleman who had, as already stated, retired from the representation of the District, in nomination for the City. It was quite evident that this would have spoiled the demonstration, and there was but one method to overcome it, as one or two votes would have been sufficient to return Mr. Foster, if the electors had continued quiescent. The method which suggested itself to overcome the difficulty was to place some person in the mother country in nomination, that all in favor of non-election should show their opinion by voting for the absentee:

It was necessary, however, to have a person of rank, to whom the honor of M.L.C. could be of little moment; and it was, moreover, rendered still more incumbent on us, in the present excited state of our community, to have a person independent of any sect or party. On these considerations, and as a mark of confidence in Earl Grey, that nobleman was placed in nomination, with this remark, that his lordship would perhaps have his attention thereby called to our destitute condition, and see that we had more confidence in him than in Sydney representatives. The result was that 300 voted in favor of Earl Grey, or non-election, and about 100 in favor of Mr. Foster—including at least twenty Government officials.

The Sydney Press opened upon us a broadside of invective, and we were all accused of having committed political suicide—of having declined to exercise our privilege—and of having burlesqued Earl Grey. It is not to Sydney, however, that we have to explain our conduct; but to her Most Gracious Majesty, and her Ministers, and we are anxious to do so as early as possible.

It would be useless to follow our assailants through the mazy labyrinths where they have wandered, and it is simply necessary for me to prove that there is no analogy between real representation and that pseudo form of representation to which the Port Phillipians have been accustomed. Representation is only a *means* to an *end*, and, if the latter cannot be obtained, the formalities of the former are a mere burlesque. Now it is pretty evident that the end cannot be, under existing circumstances, obtained for Port Phillip in the Sydney Legislature, where thirty members represent Sydney, and six Port Phillip, having had a pretty clear proof during the past five years, as the destitute condition of our district bears ample testimony; but the hour has arrived when we must throw aside the veil which conceals our real position from the Home Government, and not permit Her Majesty's Ministers to suppose that we are bearing contentedly the spoliation of the district. The denizens of Port Phillip are too enlightened not to desire free institutions; in fact, we regard them as the highest political advantage—as, indeed, the greatest blessing which any country can obtain. The present is a peculiar case—

“None but itself can be its parallel,”

—where two laws have come into collision. Such cases occur frequently in

morals, and even in political economy; they are, in short, cases which are carried out of the general rule, and the jurisdiction of that rule by particular deflexions. The case I briefly put in the following terms:—representation is the means to obtain the end, good government; and is, under ordinary circumstances, of great advantage to a people; but, through various circumstances, which have been above represented, so far as Port Phillip is concerned, it has only been a name for tyranny, and is as completely a misnomer as to call black white. It is a system which has suited Sydney well—our revenues, our resources, and even our vaunted privileges, have all been monopolized by Sydney, which has watched our movements like a cormorant, eager to prevent the escape of its fancied prey; but you must also be informed that it is a system which has kept this Province in indigence and misery. Think not, sir, it was to insult Her Majesty's Government, or to trifle with our privileges that we would not only not elect, but when the friends of election brought forward a real *bona fide* candidate, we elected Earl Grey instead, for I most solemnly assure you, sir, that, in refusing to keep up any longer the farce of sending members to Sydney, the electors did not decline the glorious privilege of popular representation in a legislature of their own; nay, they, to a man, look upon popular representation as the greatest privilege they possess; but they were anxious to suspend its exercise until Her Majesty's Ministers could grant them Separation, and enable them to prevent Sydney from injuring their District in the same ruinous manner as in former years. But in thus offering *passive* resistance to the present Constitutional Act of New South Wales, which enforces the unnatural alliance between Port Phillip and Sydney—two Colonies perfectly distinct in feeling and in territorial limits, and affirms what sense denies, that they are one and the same colony—the inhabitants of Port Phillip disclaim, as strongly as language can, any desire or feeling contrary to their allegiance to the Queen and their respect for the British Constitution.

I have informed you of the unanimous resolve of the district of Port Phillip at the nomination of the 20th July to return members to the Legislative Council of New South Wales no longer: of the futile effort to reverse this decision on the 25th in nominating a member for the City of Melbourne, and how the electors carried non-election and maintained their consistency by voting for Earl Grey, or non-election, which was the only method which suggested itself to them, after the real candidate had been proposed, to vindicate their principles. Such were the circumstances attending non-election in Port Phillip. We thereby demonstrated that our privileges had become utterly valueless in consequence of the preponderating influence of Sydney in the Legislative Council—that we could not find candidates to proceed to Sydney in Port Phillip—and that the seats were regarded as open to any person in the Sydney district—that, in short, in her present position, Port Phillip was utterly helpless, compelled, indeed, to submit to Sydney oppression, and that she was resolved not to afford even the appearance of passive acquiescence in the system of cruel spoliation pursued by Sydney towards her; and the electors based their views on the principles of eternal justice, holding that no colony has a right to rob and oppress another colony, and they hoped that Her Majesty's Ministers would no longer shut their ears to the struggles of a noble and enslaved people, but at once accede to their fair demands for justice; I am certain that the

liberal-minded statesman must freely acknowledge that we were right to forbear using a privilege to our disadvantage, when we did so without menace, hostility, or defiance towards the lawful authorities; they cannot deny that it was better not to receive the semblance of representation, when the reality did not exist.

Even in the mother country, entire unanimity never did prevail on any great political question, and in this colony, where cliques and coteries abound, it scarcely could have been anticipated. Sydney was highly incensed that Port Phillip—long humbly submissive to her tyrannical system of oppression—should dare to assert her independence, and initiate any measures to force her to forego her spoil. The Press attacked those who had carried out the non-election movement, and endeavored to show that it was a radical, and even a revolutionary, demonstration; a very absurd argument, by the way, Port Phillip having only *declined* to exercise a *privilege*, and not refused to perform a duty. The Sydney journalist termed the nomination of Earl Grey a mad freak, and pretended to be indignant at it, as an abuse of the elective privilege, keeping sedulously out of view the circumstance under which that nobleman was put in nomination; and the same journals prophesied that it would be very ill received in Downing street. In this manner they worked upon the more credulous persons in the district, until, pallid with fear, as Ovid says, "*Minimæ vires frangere quassa valent*," they repented of the result, and fresh writs were then issued by His Excellency for the District of Port Phillip.

The Governor of New South Wales must have peculiar ideas; for representation being a privilege, we have him here on behalf of the Crown begging the District to do—what? To exercise the privilege after they had respectfully declined it. We deem this beneath the dignity of the Governor of a Colony, and can well believe that he was recommended to adopt this extreme step by interested advisers, who were anxious that the Sydney District should re-establish despotism in this Province again, where it had already driven its talons so deep that there was some danger that it would split the whole fabric. Sydney has no right to base her prosperity upon our ruin, nor can wealth, purchased at the expense of outraged humanity, prosper. The Executive, moreover, changed the place of nomination from Melbourne, a city, with a population of 14,000, to Geelong, a rising township in the west, with some 1800 inhabitants, and in thus flattering the vanity of that aspiring little hamlet it obtained many adherents to its cause. Great efforts had, in the meantime, been made to obtain candidates, and a sufficient number were obtained, but, unfortunately, prior to the nomination, four of them, Messrs. Moor, Foster, Wills, and Haines, resigned, which left only one real aspirant at the nomination, a Mr. Lachlan Mackinnon, who came forward as a sort of desperate resource for the candidate hunters; the Geelong people, however, put five resident candidates in nomination, and, in consequence of treachery amongst those formerly favorable to non-election, they appear to have been tolerably well supported, but a large number of those favorable to non-election were resolved to maintain their consistency, and, accordingly, five cabinet ministers were placed in nomination, in opposition to Mr. Mackinnon and the grotesque medley of candidates that had been brought forward; the result is not yet known.

It must now be obvious to you that Port Phillip acted boldly, but justly, in

displaying a jealous reluctance to renew the term of its slavery throughout another period of five years, and, when you hear of the wrongs sustained at the hands of Sydney, you can scarcely be astonished that enmity should rankle in our hearts against that district. As well might you expect the slave to love and venerate the tyrannical driver who daily flays his back with the lash as to expect fraternal love to exist between Port Phillip and her cruel guardian. Port Phillip may well be annoyed at witnessing New Zealand, Van Diemen's Land, South and Western Australia, all enjoying the full benefit of their own revenues, while she is kept in penury, although far more deserving of her own earnings than the colonies above enumerated.

You will now, sir, I hope, admit that the act of non-election was not the offspring of either frenzy or fanaticism; and that it was nothing more than an effort of a victimized and oppressed people to shake off their oppressor.

Port Phillip, a thriving settlement, pleads humbly to be placed upon an equality with Van Diemen's Land, South Australia, and the remainder of the sister colonies.

We know that our appeal is not made to an indifferent stranger, but to a parent who is bound to deal out an equal amount of justice to all. The tribunal is the Imperial Parliament—our adjudicators, enlightened Statesmen, whose boast is that they rule a free and independent nation. They can only view Sydney and Port Phillip as settlements for British colonists, alike deserving of protection and good government.

As one who advocated not only non-election, but the absolute necessity of returning Earl Grey, I have deemed it my duty to lay the above facts before you, and vouch for the truth of what I have stated.

I have the honor to be, Sir,

Your obedient servant,

THOMAS M'COMBIE.

Melbourne, Port Phillip,
30th September, 1848.

TO THE RIGHT HONORABLE LORD RUSSELL, M.P., &c. &c.

MY LORD,—I had the honor to receive your letter dated 21st June, 1847, acknowledging my remarks on "Emigration and Prison Discipline," published in the form of a letter to the British Government.

I am led to believe that your lordship is anxious to receive suggestions from the inhabitants of the colonies, and I again take the liberty of trespassing upon your time with the view of laying before your lordship a few observations on the petition adopted by a public meeting of the colonists of Port Phillip, on Monday last, for the removal of Charles Joseph LaTrobe, Esq., from the office of Superintendent of the District, and, also, on a petition of the Town Council of Melbourne on the same subject.

I have the less objection to intrude upon your lordship's time, having been unanimously elected to preside at the public meeting of the colonists; and I take the liberty to inform your lordship, that Major Newman—the gentleman who moved the first resolution at the public meeting—has authorised me to state that he fully concurs in the sentiments expressed in the present communication.

I need scarcely inform your lordship, who have been for such a length of time acquainted with the colonies, that the territory heretofore known as Port Phillip, and about to be erected by her Majesty into a separate Government, with the royal and popular name of Victoria, has been, up to the present time, annexed to New South Wales, and ruled by a Lieutenant-Governor, under the title of Superintendent. This official has been the real, but not the nominal, Governor of the province, having, upon matters of importance, to consult the Governor-in-chief of New South Wales; and there can be little doubt that the system is unfortunate, Port Phillip possessing every branch and office of Executive Government complete within itself; but it would have been infinitely less injurious to our interests had we been blessed with a Superintendent of ability and independence, who would have brought the real wants of the colonists before his superiors, explained the wishes of the people, and made but the slightest exertion on behalf of the rapidly expanding province of Port Phillip.

I have no reluctance in thus addressing the head of Her Majesty's Government in regard to the wishes of the great bulk of the colonists on this subject, from the important fact that Mr. LaTrobe has now been in the office of Superintendent nearly nine years, whereas, by a late regulation, six years is the term which has been allotted for all those holding such appointments to remain in office. That great dissatisfaction exists with regard to the conduct of the present Superintendent must be apparent to Her Majesty's Government, from the fact, that the Town Council of Melbourne agreed, by an overwhelming majority, to petition the Throne for his removal; and that a public meeting, the largest and most influential ever held in Port Phillip, also agreed to lay an humble Petition at the foot of the Throne for his recall. My Lord, it has been industriously circulated by Mr. LaTrobe's friends and dependents, that this meeting was not respectable, and that those who moved and seconded the resolutions were not men of influence; and this being a point which ought not to be passed over, I shall shortly state to your Lordship who these men were. The first resolution was moved by Major Newman, a retired officer of distinction, and an extensive and wealthy land and stock owner, and was seconded by Mr. J. P. Fawkner, who is also a land and stock owner, and who was fully entitled to take this prominent place, from the fact, that he was the first colonist from Van Diemen's Land who put foot on the shores of Port Phillip. The second resolution was moved by Mr. Councillor Annand, a gentleman extensively engaged in mercantile pursuits and the engineering and iron-founding trade, and was seconded by Mr. Young, who is a respectable and independent resident of Melbourne. The third resolution was moved by Mr. Robertson, a land and stock proprietor, and was seconded by Mr. Bingley, a person in independent circumstances.

Such, my Lord, were those gentlemen who moved and seconded the resolutions; and, although the inclemency of the weather prevented some gentlemen who were anxious to take a share in the proceedings from coming forward, I yet assert, that the movers and seconders of the resolutions were a fair representation of our country; while the meeting is deserving of the utmost consideration, from the number and respectability of colonists assembled, despite a wet day, and the great exertions made by the friends of the Superintendent,

to stop it (by printing placards and issuing circulars calling upon the public not to attend); and it is a remarkable fact, that the resolutions were arrived at almost unanimously, only *one* person having been bold enough to oppose them. I have deemed this explanation necessary, as it may be stated by the Superintendent or his friends, that the meeting did not represent the community.

The dissatisfaction with the present state of things has existed for a long period, but it is only recently that the public have discovered the extent of Mr. LaTrobe's participation in it; and it is the earnest hope of all good men, that, as this territory never cost England a farthing, and has even contributed about £300,000 for the support of Sydney, your Lordship and Her Majesty's Government will accede to our wishes—remove Mr. LaTrobe, and grant us separation, and a proper, respectable, and independent man for our Governor. The two petitions, which must take the usual course, through the various official channels, will inform Her Most Gracious Majesty of the state of public feeling in Port Phillip.

It will naturally be expected, in a communication like the present, that the reasons for the public dissatisfaction should be given; and, although they are condensed into the two petitions which your Lordship will, no doubt, take the trouble to refer to, I shall yet notice them in this place briefly and generally. I have already stated, that the system of government adopted towards Port Phillip has been execrable, but I am ready to prove that it would not have been one-half so bad in the hands of any other man of honest, upright principles, and ordinary ability. Port Phillip, a colony independent in every respect of Sydney, and settled by graziers from the colony of Van Diemen's Land, has been forced to become a part and portion of the distant colony of New South Wales, very much against the wishes of the colonists; the Ordinary and Territorial Revenues have been swept into the coffers of the Sydney Government, and expended in the very public works in Sydney which were urgently required in Port Phillip; and the money really voted for Public Works in this territory has been kept back upon system, in direct contravention of the 34th clause of the Constitutional Act of the Colony, which declares that the whole Ordinary Revenue shall be appropriated by ordinances to be for that purpose enacted by the Governor, with the advice and consent of the Legislative Council of the said Colony. The following facts will show your Lordship the system of which we complain:—

REVENUES OF THE PORT PHILLIP DISTRICT AND EXPENDITURE.

The amount of Ordinary Territorial Revenue collected in

Port Phillip from its settlement in 1846 to 1847,..... £1,084,581 9 8

The amount expended and charged to the district for its

share of Emigration,..... 738,979 15 9

Balance now owing,..... £345,601 13 11

PUBLIC WORKS, PORT PHILLIP.

Amount voted from 1840 to 1848,..... £153,446 9 10

Whereof there was expended,..... 91,486 18 5½

Voted and not expended,..... £61,959 10 4½

The larger portion of the above expenditure was in the year 1846, after the Town Council had, by a large majority, petitioned the Legislature for an inquiry into the cause of the delay in the various Public Works (15th June, 1846), and the tenders were then published for Works which had been delayed from year to year, not much more than £20,000 having been expended up to that time.

The little money which has been actually expended in the province has been frittered away for no beneficial purpose. The Sydney Road, and the other main roads, have been neglected, while a road was made, at an expense of some six hundred pounds, to the residence of Mr. Lyon Campbell, a private friend of the Superintendent's; and nearly two thousand pounds in a road through a swamp to the Beach, where there is no traffic; a sum of money has been placed upon the estimates for the present year by His Honor the Superintendent, amounting to £2,400, for laying down water pipes from Melbourne to the Beach, an undertaking perfectly useless, while many public works, of paramount importance to the colonists, have been urgently demanded, during the whole of the period he has held the office of Superintendent, which he has steadfastly refused to undertake. When the colonists have complained of his measures, and suggested what was necessary for the welfare of the colony, they have been told to hold their tongues in very polite language—that it was not their business to interfere. Thus, while plenty of money has been voted for public works in this territory, they have been delayed and protracted year after year; a police office is now being erected, for which the money was originally voted in 1842, when, in consequence of the large emigration, labor was most abundant, and such distress existed that the corporation employed men on the streets at 15s. per week, and many had to leave the colony for South America, and yet, the Superintendent has acknowledged, in a letter dated 7th September, 1847, that he found it impossible to proceed with the work in 1842. There were many other public works for which the money was voted, such as for Light-houses, Government Offices, Lunatic Asylum, and these lay over from 1842 to 1846, when the Town Council petitioned the Legislative Council of the colony for an inquiry into the unconstitutional and extraordinary delay, and the tenders for many of these works were published, and at the present moment the police office is being erected when wages are four times as high as in 1842. The colonists have loudly complained of the insincerity and duplicity of the Superintendent, he having uttered so many mis-statements that the colonists can now scarcely believe him upon any occasion. The expanding resources of this fine territory have been nipped in the bud by his repeated attempts to make it appear that it was not ripe for improvement; thus, in writing to Sir Charles FitzRoy upon his arrival in the colony, (Dated 22nd September, 1846), he informs him—

"The Port Phillip District possessing within herself, for the present, neither the experience nor the means of prudently devising or properly executing the many important public works, highly conducive to the prosperity and comfort of the inhabitants, she has had necessarily to await a period of greater maturity, and more settled manageable principles of internal government, before the appropriation of these funds, though actually at command, could be undertaken."

The public have loudly complained of this letter. His Excellency, being a stranger, would naturally be led to believe any advice or information regarding Port Phillip which the Superintendent administering the government might give him; and I would point out to your Lordship, that South Australia, Western Australia, and New Zealand, as well as many other colonies of far less consequence, and with a population infinitely inferior to Port Phillip, have each their revenues expended within themselves, in the improvement of their means of communication, in the erection of their roads and bridges, and many public works absolutely necessary for the accommodation of the inhabitants, the increase of civilization, and social progress. In Port Phillip, with one solitary exception, there has not been a bridge erected by Government—the roads, which are almost indispensable through the country, have not been formed—the main road to Sydney is often impassable during the winter season, the Sydney and Port Phillip mail being occasionally detained for two or three weeks, and often for some days. Port Phillip, with immense resources and large revenues, lies neglected, almost in a state of nature, her progress having been systematically delayed by the very official who was called upon to protect and promote her interests. Her commerce has been crippled by want of light-houses, where plenty of money had been voted towards their erection—by the refusal of the Government to improve the ports of Melbourne and Geelong, even when such works have been urged upon the Superintendent for many years, and by many other causes, which it would be almost impossible to give in detail. It is not surprising that colonists who have for years endured so much suffering, should, at last, come boldly forward to petition for redress of their grievances, and, I trust, Her Most Gracious Majesty will not hear their petition without acceding to its prayer.

The public may justly complain of the treatment the Town Council has received from the Superintendent; a legally constituted corporation, and representing upwards of a third of the population, this body—the only popular institution in the territory—has found it necessary to remonstrate with the chief administrative officer of the Government on the unaccountable system of mismanagement which was proceeding under their eyes, but have been invariably treated with the greatest disrespect, and as good as informed that the Government would pursue its own course, heedless of any popular remonstrance. The deepening of the River Yarra has been in agitation for some years, and although that river could, at a very small expense, be improved to admit of vessels coming up to the City of Melbourne, yet the work has been delayed from year to year, to the great inconvenience of the merchants and inhabitants. The Town Council have remonstrated with the Superintendent for appropriating money towards unwise speculations, and suggested that the improvement of the navigation of the Yarra, and other public works, more urgently required his attention; but the replies have been most unsatisfactory,—nay, frequently almost insulting. It seems, indeed, to have been the constant aim of the Superintendent to cripple the power of the Council, and render it as useless and inefficient as he possibly could. I cannot say anything as to his intentions in thus defeating the objects contemplated by Her Majesty's Government in granting the City of Melbourne a Corporation; but the effect of his hostility has been most prejudicial to the interests of the

colony—more particularly to the City of Melbourne. The lawfully constituted municipal authorities have no power beyond the election of the chief magistrate, who has the control of the city police, and presides at the meetings of the city justices. The Aldermen of the City are not magistrates as in England, and, in fact, in the United Kingdom of Great Britain and Ireland. True, the Superintendent might retort, that Port Phillip was, at present, an integral portion of the convict colony of New South Wales; but this territory has been peopled in the same way as South Australia, by free emigration from the mother country; and in Sydney, where a large proportion of the population is identified with convictism, the whole of the aldermen have been made magistrates without respect of persons. The Melbourne Town Council have petitioned the Governor-in-Chief to be placed on the same footing, but His Excellency had declined to interfere with the Superintendent, and that official will only place such aldermen as he thinks likely to favor his own and his friends' views in the Commission of the Peace, thus giving a death-blow to independence in a public body.

The magistrates who have been appointed by his Honor the Superintendent are not superior, in any respect, to the majority of the Council; for the burghesses of a free city are fitter to select their magistrates than any Superintendent. That official has, however, appointed, for the most part, persons obnoxious to the public; and some of those appointed are even unfit for the office, and this is more disastrous, inasmuch as the whole of the licensing business of the city is under their jurisdiction, the mayor being chairman. It has, however, sometimes occurred, that the latter official has been prevented from sitting on the licensing bench, in consequence of being connected with the sale of wines and spirits, a ridiculous arrangement by the way, as a magistrate may have a son or son-in-law in that line of business, which is exactly the same thing, and, perhaps, would suit the circumstances of the case better than if he sold wines, &c., himself; and the whole control of the branch is handed over to the town magistrates, who are, many of them, unfit to exercise such a privilege. Your Lordship is aware, that in the large cities in the mother country the magistrates are the municipal rulers; now, only one alderman has been appointed a magistrate in Melbourne; another was appointed a magistrate from the circumstance of having been elected mayor of the city; the other two are not magistrates, one having been offered it privately as a favor, but refused it, unless it were also given to the other as a matter of right; the objection to the other is, I believe, that he is not genteel enough for such favorites as have already received the honor from the Superintendent.

Melbourne thus presents the unparalleled spectacle of an incorporated city, ruled by magistrates, not, in any way, identified with the citizens, but actually hostile to their interests; and some of them have been openly charged with corrupt practices; others are respectable and upright men, but, of course, compelled to go hand in hand with the Superintendent.

My Lord, the Town Council of Melbourne have publicly and fearlessly expressed their opinion of his Honor's conduct, but their own insults and wrongs they have not touched upon, unless in regard to those matters of public business where the Superintendent had broken faith with them. That body has been blamed, by some, for the stand it has taken on behalf of the

public; and it has been asserted, that such a body has no right to petition the Throne; but, your Lordship will admit, that the privilege of petition is the birthright of every British subject, and much more of a municipality representing so many persons as the Council just mentioned, and composed, as it is, of men of all parties and creeds. Your Lordship must be aware that such a body must represent the real energy of the community, identified, as it must be, with the respectable middle class—which, in a new colony, where there is no privileged order, and no real aristocracy, forms the most industrious and useful class of Her Majesty's subjects.

My Lord, I may have exceeded my duty in thus bringing the case of the colonists before your Lordship, who will, I trust, forgive my zeal on behalf of the people of Port Phillip, and I am the rather encouraged to approach Her Majesty's Ministers, from the Dispatch of your noble colleague, Earl Grey, the Secretary of State for the Colonies, to His Excellency Sir Charles FitzRoy, dated, Downing street, 31st July, 1847, wherein he states, that local interests can be best managed by the colonists themselves; and further, that Her Majesty's Ministers will have great gratification in settling the colonial governments of Australia on a *basis* whereby the colonists may themselves erect institutions worthy of the people from whom they are descended. Such noble sentiments, my Lord, encourage the people to lay their complaints at the foot of the Throne, and, as I firmly believe that a more loyal people, or colonists more warmly attached to the Constitution, cannot exist, I trust that their fair remonstrances will receive attention, and that the grievances under which they have so long groaned will be redressed; I more earnestly pray that this may be the case, as I fully concur in the first resolution of the public meeting of the colonists, that it is necessary for the tranquillity, good government, and prosperity, of Port Phillip, that the present Superintendent should be removed, and an official appointed in his place in whom the people will have confidence, and who will be favorable, instead of hostile, to Port Phillip interests.

Humbly trusting that your Lordship will excuse the writer for trespassing upon your valuable time,

I have the honor to remain, &c.,

THOMAS M'COMBIE.

CHAPTER XII.

THE punishment of crime by transportation considered—The class of felons sent to New South Wales, and the demoralizing character of the voyage—Transportation the foe of free emigration—General demoralization existing in penal colonies, and state of Van Diemen's Land and Norfolk Island—Influx of expirées into Port Phillip—The Secretary of State, under authority of an Order in Council, attempts to force convicts on the colonies—Great agitation in Melbourne and Sydney, and public meetings held to petition against this Order—The *Randolph* enters, but the convicts are not allowed to land in Port Phillip—Resolutions against receiving convicts, in any form, carried in the Legislative Council of New South Wales—The colonists of Van Diemen's Land continue the battle against transportation—The whole of the Australian Colonies enter into a league for the abolition of transportation in any shape or form—The total cessation of transportation.

THE illustrious navigator Columbus, in his last expedition to America, carried with him a number of felons from the prisons of Spain, and set them to work in the Spanish plantations. It was not until the reign of Elizabeth that banishment was seriously thought of as a punishment for crime; but in the time of her successor, James, it was introduced pretty generally, and the British plantations in America received a large number of the worst criminals of the parent State. Those unfortunate persons continued to be sent to the American colonies until the period of the war of independence. The more respectable class of colonists complained of the system, and the celebrated Franklin compared it, in degree of moral turpitude, to the American colonists landing cargoes of rattlesnakes on the English shores. The class of prisoners who were first transported to New South Wales must have been of a very depraved character; for, however pure they might have come on board a convict ship, they could not have arrived at Sydney without becoming utterly depraved by the associates which surrounded them in a long and tedious voyage. Females might have been driven by want to perpetrate offences, without having abandoned themselves to every kind of dishonor; but in entering a prison ship, in the olden time, they might bid farewell to hope. Such a vessel was a floating hell; each officer and sailor was allowed to select a female prisoner, and the

remainder were, on certain occasions, abandoned to the license of the male convicts. Need it surprise any person, therefore, that the prisoners were turned out more profligate than they entered? The government of the day was culpable for the lax system of morality openly permitted on board those vessels, and encouraged by the officials of high rank who were on board. During the administration of Governor Macquarie, the discipline on board prison ships was very much improved. The female prisoners were sent out in separate vessels, and the harsh features of the system were softened and humanized. The alteration soon made itself visible in the improved tone of the prisoners landed at Sydney and Hobart Town. The offenders against society who are convicted are too often a bad class under the most improved treatment; the vices for whose gratification they perpetrate crimes in the parent State are generally latent within them, and unless it becomes their interest to behave with propriety they are likely to break out at any moment. It was the candid opinion of Mr. Price, the late Superintendent of convicts of Victoria (who was unfortunately murdered by the prisoners of the hulks at Williamstown), that with the "hardened convicts reformation was not to be expected." This opinion was founded on long study of their character, and was but too near the truth.

The dark flood of polluted humanity which flowed into New South Wales and Van Diemen's Land has been diverted to a small settlement on the west coast of the Australian continent, where the colonists, with a very short-sighted policy, agreed to receive them. Their poverty, not their will, consented. Transportation is the enemy of free emigration. It is not much to be wondered at that respectable laborers will not emigrate to a colony that is degraded and polluted by so foul a taint. Every person with a family will most particularly avoid any colony which has this stain on its fair fame. Those who, under the assignment system, availed themselves of the cheap labor offered them, had too often cause to regret having ever admitted a felon within their doors; as it has ever been found impossible to keep the young members of the family from being contaminated by their presence. In new settlements, where work is always abundant, there ought not to exist any crime; but,

what has been the fact? In New South Wales, during the last year that convicts were received, there were 912 convictions in a population of 114,836; nine years later there were only 571, in a population of 220,474.* In Port Phillip, where the first pioneers were tainted with the vices of the convict colonists, there were 75 convictions in a population of 22,000; in the free colony of New Foundland, in the same year, there were only 4 convictions in a population of 100,000. Great Britain has taken advantage of the weakness of her colonies to eject the criminals of the mother country on their shores. This is a great national crime. Very much more injury is done by concentrating criminals into communities than by diffusing them into small gangs over the country; a parochial system might be introduced by which those citizens who had forfeited their liberties to the laws of their country might be made useful in public works. Every country ought to keep its own criminals; and Franklin's simile of the rattlesnakes was perfectly just. There is no question but that Britain might have worked her criminals to far greater advantage at home; and it is a grave national error to have kept up penal colonies at an enormous cost—and what was worse—adding to the virulence of the moral distemper. The assignment system had to be abolished in Van Diemen's Land, and the prisoners kept at work in large gangs. No associations of human beings have ever been more morally degraded and demoralized than those; crimes of the most horrible and revolting character were so prevalent, that a human being could not emerge from such an atmosphere in a fit state to return to society. No pictures ever painted would be so appalling as a mere record of the state of these penal settlements; and the government of Britain was quite cognizant of the truth, as our information is partly derived from the correspondence between the authorities of Van Diemen's Land and Lord Stanley, now the Earl of Derby, during the period that he was Secretary of State for the Colonies. This was the very worst era of the penal system—more deplorable than under the older *regime*, when convicts, who were assigned to good masters, occasionally reformed. In the gangs all sense of shame was utterly lost, and the felons viewed their social and moral degradation with a fiendish despair. Their wild and ribald jeers,

* In 1839, 22 executions took place, and in 1849, only five persons suffered.

their profane oaths, their malignant, sparkling eyes, thirsting for revenge, and glaring on their guards,—formed one of the darkest pictures of degraded humanity. But, notwithstanding the sad records of the monstrous evils of the transportation system in Van Diemen's Land and Norfolk Island, a Parliamentary Committee reported, in 1856, to the effect that, "the punishment of transportation is more effectual—better adapted for the ultimate reformation of convicts—and more beneficial to this country, than any other secondary punishment which has yet been tried." That it is more beneficial to the parent state than any other mode of secondary punishment which has yet been tried may be true; but that it is more effectual and better adapted for the ultimate reformation of the criminals is a proposition utterly at variance with the evidence upon record in the archives of the Colonial office. The influence of convictism was, at first, perceptible in all the Australian Colonies. Port Phillip and South Australia were settled by free emigrants; but they found it impossible to prevent the prisoners, whose sentences had expired, from crossing Bass's Straits and pouring into the new fields of enterprise so temptingly laid open. Port Phillip had, however, always proudly referred to its purity and social superiority to either the middle district of New South Wales or Van Diemen's Land. It admitted, with great regret, that its territorial position in close proximity to these penal settlements exposed it to the contamination of convictism; still, the inhabitants had been spared the degrading associations of the chain and the lash, and it had not the evil repute of the convict colonies. The people were not, until the golden era, driven to the adoption of such a measure as the Convicts Prevention Act, which was then rendered necessary to keep this most objectionable class out of their boundaries.

In the early part of 1849 the colonists of Port Phillip were warned by Mr. Jackson, who was at that period agent for the colony of Van Diemen's Land, in England, that Port Phillip was about to be declared a colony where ticket-of-leave men might be sent, and that arrangements had already been completed for forwarding the first cargo of them to Melbourne. This information was soon found to be correct, and the utmost indignation was immediately expressed by all classes. It is only fair, however, to state, that the Legislative

Council of New South Wales had, in April, 1848, passed resolutions accepting the offer of the Home Government to send exiles and ticket-of-leave holders, to be followed by their wives and families, and an equal number of free emigrants—all at the expense of the Imperial Treasury. The members of the Council were led to accept these exiles by dire necessity, from the great scarcity of labor; and it was understood to have reference to the middle district, as Port Phillip had, at this time, only nominal representatives in the Legislative Council of New South Wales—her members being Sydney men, identified with the northern portion of the colony. But, while the noble Lord at the head of the Colonial Department determined upon taking the qualified consent given by the Legislative Council as an excuse for again deluging Australia with prisoners, he seemed totally to have overlooked the other portion of the compact, and did not send one free emigrant at the expense of the British Treasury; and no attention whatever was paid to the resolutions of the New South Wales Legislature. A public meeting was held a few days after the warning had been received—on the site of the present Town Hall—and a large number of citizens assembled to condemn this invasion of the rights of the free citizens of the district. The speakers were Messrs. S. Stephen, R. Balbirnie, B. Reynolds, W. Hull, J. O'Shanassy, J. S. Johnston, W. Kerr, R. Heales, and J. P. Fawcner, and the resolutions condemning the proposed introduction of felons, as a breach of faith with the great majority of the inhabitants who emigrated on the distinct assurance that Port Phillip should never be a convict settlement, were carried; a committee which was appointed waited upon the Governor, who was, at this time, on a visit to Port Phillip, and impressed upon his Excellency the imperative necessity—for the preservation of the public peace—of prohibiting the landing of any convicts that might approach the shores of Port Phillip. A few days afterwards, a meeting of the magistrates of the city and district was held, and very strong resolutions were passed condemning the attempt about to be made by Earl Grey, and a deputation waited upon his Excellency with a memorial on the subject. To both deputations his Excellency promised that no convicts should be permitted to land in Port Phillip until the feelings of the colonists were made known to the Imperial Government;

and he directed the Superintendent to order any vessels arriving with felons, of any class, to proceed to Sydney. It will be observed, that Mr. LaTrobe's friends have attempted to raise his character for patriotic feeling to Port Phillip on the occasion of ordering the *Randolph* to proceed to Sydney, a few months later, but it was to Governor Fitzroy that the colonists were, in reality, indebted for the preservation of the fair fame of their province; and this forbearance rendered him very unpopular in Sydney. On the eighth day of August, 1849, the *Randolph* approached the Port Phillip Heads, where instructions had been left by the authorities that the Captain should not allow her to enter, but at once proceed to Sydney. He thought fit to disobey this order; alleging that he was chartered for Hobson's Bay, to that port only was he insured, and there he was determined to go. The excitement was considerable, and the people resolved that if any attempt should be made to violate the promise made to the people, by landing the convicts on the shores of Port Phillip, they would oppose it by physical force. The Superintendent wisely averted bloodshed, and, in accordance with the arrangement which had been entered into between the people and the Governor, directed the *Randolph* to proceed to Sydney. The Town Council of Melbourne, although it had some months previously petitioned for Mr. LaTrobe's recall, at once passed a resolution conveying the grateful thanks of that body to his Honor for sending away the felons in the *Randolph*. A public meeting was convened to consider the steps rendered necessary by the issue of the Order in Council permitting the deportation of convicts in British colonies, in order to prevent the Home Government from sending convicted offenders to the district of Port Phillip. The Queen's Theatre, in Queen street, near the corner of Little Bourke street, in which the people upon this occasion assembled, was densely crowded. The Mayor of the city was voted to the chair, and the following persons took part in the proceedings:—Messrs. L. McKinnon, C. Campbell, Dr. Thompson, Messrs. Kerr, Willis, Balbirnie, Ramsay, Marsden, Johnstone, M'Combie, Langlands, Dr. Greeves, and Captain Webster. This meeting passed a resolution protesting against the right asserted by the British Government in the before-noticed Order in Council, dated 4th September, 1848, of sending convicts to any

of the British colonies contrary to the express wishes of the inhabitants; and claiming the protection of the great constitutional principle—that Britain has no right to tax the people of the colonies for imperial purposes, which it was now attempting to do, by requiring them to maintain a portion of its criminals. The second resolution declared, that Port Phillip, although joined for a short time to New South Wales, had never been, in any sense, a Penal Colony; and that the Secretary of State for the Colonies had, on the first establishment of the province, issued express instructions prohibiting the introduction of convicts; and that, being a free colony, the people were prepared to undergo any extremity rather than submit to become the receptacle of felons. The third resolution expressed the sympathy of the meeting for the colonists of the Cape of Good Hope, and declared that Port Phillip would make common cause with it, or any other free British colony, in resisting the unjust and tyrannical edict. The fourth resolution declared, that the people of Port Phillip desired to be free and virtuous; and that no motives of expediency would reconcile them to the moral evils that must arise from the association of the men, women, and children, of Port Phillip, with the convicted felons of the empire. The fifth resolution declared, that the attempt to introduce felons would disgrace the fair name that Port Phillip had acquired in Europe, and deter the most eligible classes of emigrants from coming out, and thus cut off the main source of its future greatness and prosperity. The sixth resolution declared, that in carrying out their theories of criminal punishment, at the expense of the colonies, the Government was guilty of a gross breach of faith; that the meeting denounced those Ministers of the Crown who would insist on this obnoxious measure, and appeal to the Throne and the people of England against a system of injustice that would never be submitted to in Great Britain. A petition, embodying the resolutions, was then agreed upon, and the meeting separated. The Legislative Council of New South Wales passed a resolution about this time, which was brought forward by Mr. Cowper, declining to receive convicts upon any terms; protesting against any measure by which the colony would be degraded into a penal settlement; and earnestly entreating her Majesty to revoke the Order in Council, by which New South Wales was

again made a place to which British criminals might be transported. On the 11th June, a violent meeting was held at the Circular Wharf, Sydney, in consequence of the arrival of the *Hashmey* from Port Phillip. A protest was solemnly made by the people against the landing of the convicts, and a deputation appointed to wait at once upon the Governor. On arriving at Government House the gates were shut, and the members were refused admittance, but, after a parley, six of the number were allowed to pass the gate. They found, however, that his Excellency was engaged with the Executive Council, and could not be intruded upon, and they retired. The people severely censured his Excellency, and passed resolutions condemning him; on the other hand, about six thousand colonists signed addresses of confidence, which were presented to him; party feeling ran high, and at one period it was feared that the landing of the convicts from the *Hashmey* would give rise to an outburst of public indignation.

The Imperial authorities could hardly have been blind to the danger which they ran in persisting in this course; indeed, a new world of political thought seemed to have opened. At the great public meeting held in Melbourne, a clergyman openly talked about the independence of Port Phillip, and the sentiment was responded to, and loudly applauded by thousands. The speeches might not, perhaps, have commanded much attention from their ability, but the speakers dealt with facts, and the expression of opinion upon them was unmistakable. They expressed their utter detestation of the effort to turn the fertile colony into a vast prison, and their resolution to resist by physical force, and rather die than submit to such dishonor—a Demosthenes or a Chatham could have said no more. The people were resolved to maintain the good name of their province at any sacrifice. It is only just to Earl Grey to state that, in the beginning of 1850, a despatch was published in the neighboring colony of Van Diemen's Land, addressed to Sir William Denison, in which his lordship stated that Parliament had granted a sum of money, in order to enable the Government to send free emigrants to the colonies which received convicts. It is doubtful, however, if Earl Grey would have adopted this second portion of the proposal if he had not perceived the unpopularity of the intended deportation of exiles; it is more generous to give his lordship credit for good

faith, but it cannot be denied, that it was very bad policy on the part of the Colonial Office to send the bitter draught six months before the sweet potion. The effect was, the rejection of the whole scheme by the colonies that were originally favorable to it. The Secretary of State was, however, wise enough not to drive the people to extremities; and, in April, 1850, a despatch was received, dated 10th November, 1849, in which it was stated that, as the government found that convicts would be more willingly received in Moreton Bay than in the other districts of the colony, it had been determined to direct all sent to New South Wales to be landed there.

The agitation had now abated in Port Phillip, but it broke forth in the middle of 1850, in Van Diemen's Land, in consequence of the arrival at Hobart Town of the ship *Neptune*, which had been unceremoniously driven from the Cape colony; thus demonstrating practically, that that colony still continued the "dust-hole" of the empire. The colonists charged the British Government with a distinct breach of faith, having, in 1848, promised to discontinue transportation to their shores; and they declared that this resumption of transportation was a positive violation of this pledge. Port Phillip had a special interest in this dispute; sending convicts to Van Diemen's Land was, indirectly, sending them to the neighboring settlements, where they could obtain higher wages, and she at once expressed her sympathies with her neighbors on the other side of Bass's Straits.

In August, 1850, the question of transportation was once more brought before the Legislative Council of New South Wales, by Mr. Lamb, who moved a series of resolutions to the effect that no more convicts ought, under any circumstances, to be sent to the colony. An amendment having been moved, that the debate be adjourned for a month, the votes were equal, and the speaker gave his casting vote in favor of the amendment. A public meeting was held in front of the Police Office, Melbourne, on the 19th September, and resolutions were passed in favor of Mr. Lamb's motion. A similar meeting was held at Sydney, and very strong resolutions carried against transportation in any shape. The result of the debate on Mr. Lamb's motion surprised nearly every person, for, with the exception of Messrs. Wentworth and Martin, none of the members

appeared in favor of the resumption of transportation, and the motion was carried without a division. The legislature of New South Wales behaved with no little inconsistency on this great social question, for, in half-a-dozen years, it gave nearly as many conflicting decisions. In 1846 it approved of the famous transportation report; the following year Mr. Cowper's resolutions against transportation were passed; in 1848 the Council agreed to Earl Grey's offer to take exiles if accompanied by their wives and families, and an equal number of free emigrants; and in 1850 Mr. Lamb's resolutions declining to take convicts, on any terms, were passed.

The last resource of the Imperial authorities was Van Diemen's Land, and here the battle continued to rage as fiercely as ever. The neighboring colonies sympathized warmly with the Tasmanians, and in the beginning of 1851 it was resolved that all the Australian colonies should make common cause, and enter into a league for the obtaining of the abolition of transportation to any portion of Australasia. The colonists of Van Diemen's Land appointed delegates to proceed to Melbourne, to confer with delegates to be selected by the people of Victoria; and Mr. Aitkenhead—the well-known and talented editor of the *Launceston Examiner*—Mr. Weston, a gentleman of standing, residing near Hobart Town, and the Rev. John West, an Independent minister, residing in Launceston, came across in the *Shamrock* steamer, and landed in Melbourne. They were received with some amount of enthusiasm by the citizens, and, after a series of protracted and anxious deliberations on the part of the Tasmanian delegates and a sub-committee of the Anti-Transportation Association of Victoria, Saturday, 1st February, 1851, was fixed upon for the conference of delegates. An effort was made to give the ceremony an imposing appearance, and a banner was unfurled in the old Queen's Theatre, where the ceremony took place, bearing four stars forming the southern cross. The object of the league was declared to be "to secure, by legal and moral means only, the abolition of transportation to the Australian colonies." It was agreed that the league should be governed by delegates from the various colonies, and that local councils should be appointed in each of the colonies, who should appoint the delegates, and manage the local affairs, and the money contributed in the

particular colonies in which they were elected. The Australasian League* was then agreed to, and a considerable number of persons came forward to attach their names to it. A public meeting was held immediately after the conference had been brought to a termination, and resolutions were passed strongly condemning transportation, under any form, and enunciating the necessity of the Australian

* THE AUSTRALASIAN LEAGUE.

THE League and Solemn Engagement of the Australasian Colonies, declared by the Delegates in the Conference held at Melbourne, January, 1861.

WHEREAS, in 1840, by an Order in Council, the practice of transporting convicts to New South Wales was abandoned by the Crown, and, whereas, by divers promises, the government of Great Britain engaged not to send convicts from the United Kingdom to New South Wales, New Zealand, Victoria, or King George's Sound. And, whereas, by an Act of the British Parliament, transportation to South Australia was positively prohibited. And, whereas, Lieut.-Governor Denison, in 1847, declared to the colonists of Van Diemen's Land Her Majesty's most gracious purpose, that transportation to that island should be discontinued. And, whereas, the colony of Van Diemen's Land has been deeply injured by the pouring in of enormous masses of transported offenders. And, whereas, divers and repeated attempts have been made to depart from the letter and spirit of these promises. And, whereas, the avowed object of Her Majesty's Secretary of State is to transfuse the convicts disembarked in Van Diemen's Land through the Australian Colonies, and thus to evade the spirit of the promises and Act of Parliament so made. And, whereas, large tracts of land have been purchased by the colonists from the Crown; many millions of capital invested in improvements; and many thousands of Her Majesty's subjects have settled in Australasia on the pledged faith of the Crown not to disturb their social welfare by the importation of crime. And, whereas, the native Anstralasians are entitled to all the rights and privileges of British subjects, and to the sympathy and protection of the British nation. And, whereas, many and varied efforts have been made to induce Her Majesty's ministers and the British Parliament to terminate the practice of transportation to these colonies, but without success. Now, therefore, the Delegates of these Colonies, in Conference assembled, do declare their League and Solemn Engagement, to the effect following:—

1st.—That they engage not to employ any persons hereafter arriving under sentence of transportation for crime committed in Europe.

2nd.—That they will use all the powers they possess—official, electoral, and legislative—to prevent the establishment of English prisons, or penal settlements, within their bounds; that they will refuse assent to any projects to facilitate the administration of such penal systems; and that they will seek the repeal of all regulations, and the removal of all establishments, for such purpose.

And, lastly.—That they solemnly engage with each other to support, by their advice, their money, and their countenance, all who may suffer in the lawful promotion of this cause.

Colonies uniting in a moral and legal resistance to the influx of criminals into any of them, and strongly recommending the objects of the League to the colonists generally. A great meeting was held in St. Patrick's Hall, Bourke street, on the 13th February, and resolutions of a similar character were carried unanimously. A large number of persons subscribed what might be termed munificent sums, considering the condition of the colony at this period, for the purposes of the League.* The Victorian branch of the League resolved upon sending a delegate to Britain, and the Council selected John Charles King, Esq., Town Clerk of Melbourne, to fill this

* The following sums were subscribed the day the League was inaugurated : Mayor of Melbourne, £105; W. M. Bell, £105; W. Westgarth, M.L.C., £105; Jackson, Rae, and Co., £105; G. S. Brodie, £105; Henry Moor, M.L.C., £105; W. F. Stawell, £105; Hugh Glass, £105; Fulton and Smith, £105; Joseph Raleigh, £105; Heape and Grice, £105; Bear and Son, £105; C. Williamson and Co., £105; Germain Nicholson, £105; D. Campbell and Co., £105; John Dinwoodie, £105; M. Gibson, £105; Mickle and Bakewell, £105; John M'Donnell, £105; Turnbull, Brothers, £105; J. R. and J. Murphy, £105; George Ward Cole, £105; Allison and Knight, £105; Dalgety, Gore, and Co., £105; John Duerdin, £105; James Graham, £105; P. Davis, £105; George Annand, £105; George Urquhart, £105; D. S. Campbell and Co., £105; Thos. M'Combie and Co., £105; G. D. Boursiquot, £105; George Cavanagh, £105; A. Thorpe, £105; Wilson and Johnston, £105; a friend to Tasmania, £52; J. G. Foxton, £52; H. and R. Langlands, £52; J. T. Smith, £52; Lawrence Rostron, £52; David Ogilvy, £52; Henry Budge, £52; Robert Robinson, £52; George W. Horne, £52; John Hood, £50; Alexander Wilson, £26; Richard Goldsbrough, £26; F. Pittman, £26; F. E. Beaver, £26; James Mayne, £26; J. and W. Donald, £25; William Williamson, £25; W. B. Hatch, £25; John Connell, £25; A. A. Broadfoot, £25; Sayce and Cheetham, £25; James Murray, £25; John R. Pascoe, £25; James Gill, £25; Samuel Goode, £25; Nathaniel Dismore, £25; Daniel M'Kenzie Craighburn, £25; William Patterson, Hunterstown, £25; John P. Fawkner, £25; John Carson, £25; John Lush, £25; D. S. and M. Benjamin, £25; Robert Campbell, £25; E. Arnold, £25; John Hunter, £25; John Benn, £25; M. Connell, £25; George Haskell, £25; John Mackenzie, £25; Peter Mag, £15; Smith and Kirk, £10; Robert Kerr, £10; Henry Jennings, £10; A. Goldsmith, Trawalla, £10; George Roger, Fiery Creek, £10; Thomas James Everist, £5; John Maclehose, £5; William Smith, £5; Cregin and Moore, £5; J. W. Bell, £5; Waldron Johnston, £5; Charles Redfern, £5; William Knight, £5; John Bland, £5; J. Brisbane, £5; Jas. Robertson, Keilor, £25; Edward Dryden, Mt. Macedon, £25; M'Cracken and Robertson, £10; Robert Sutherland, £10; Robert Mathewson, £5; Edwd. Grimiser, £5; James Watson (per R. Sutherland), £5; George Swanston, £5; Benjamin Greening, £1; George Stewart, £1; Andrew M'Cure, £1; David Young, £52; Thomas M'Intyre, £5; John Niven, £6; John Fogarty, £3.

office; and, so far as education and talent went, the gentleman was well qualified to discharge its important duties. He sailed in the *Sacramento*, on the 3rd April, for England, and was directed to endeavor to procure the total cessation of transportation to the Australian Colonies. It may be proper to state that, on the 7th April, a great public meeting was held in Sydney, at which the people resolved to dissolve the New South Wales Anti-Transportation Association and join the Australian League; and the delegates from Victoria and Van Diemen's Land were received in that city with the greatest enthusiasm. The unanimous feeling of the colonies against transportation, thus so plainly demonstrated in the League, and the great discovery of gold which immediately afterwards succeeded, fortunately prevented any attempt to thrust convicts upon the three colonies, and Britain had to look for other outlets for her felony.

CHAPTER XIII.

THE treacherous effort of the Superintendent to have a Nominee Legislature thrust on the Colony—An abortive effort to obtain the surplus revenue of Port Phillip—The state of the Franchise attracts attention; public Meetings in Melbourne and Geelong—His Excellency Sir Charles Fitzroy visits the Province, and receives a cordial reception—Separation still delayed; and Indignation Meetings, in consequence—The Bill for the Better Government of the Australian Colonies at last passes both Houses of Parliament, and receives the Queen's assent—Great Rejoicings at this event—Public Meeting to discuss the principles of the new Electoral Act—The Legislature of New South Wales refuse the reasonable wishes of the colonists; and deprive the new Colony of the Murrumbidgee District—Separation at last.

THE treacherous conduct of the Superintendent of Port Phillip was brought, rather unexpectedly, under the observation of the public, in consequence of a private despatch, dated 10th August, 1848, which was published amongst the documents attached to the Report of the Committee of her Majesty's Privy Council for Trade and Plantations, on the subject of the proposed Bill for Separating Port Phillip from New South Wales, and for other purposes. Mr. LaTrobe's despatch professed to set forth the position of Port

Phillip. It contained the following observations :—" No doubt the erection of the (Port Phillip) District into a distinct colony will at once remedy much that is anomalous in the present state of things ; but one fact, if not clear before, seems to be demonstrated beyond dispute, by the past proceedings in the district, that any form of constitution which may be proposed for the future colony, for some years to come, at least, which takes the Government out of the hands of a Governor, Executive, and Nominee Council, and substitutes for the latter a representative body, will be ill suited to its real state and position, and will render the administration of its Government as a distinct colony, upon whomsoever it may devolve, a task of exceedingly great difficulty and responsibility."

The indignation of all classes was aroused by the publication of this untrue picture of the position of the district, emanating from its ruler. The Melbourne City Council passed a resolution to the following effect :—" This Council, as the only representative institution existing in the province, deem it, in these circumstances, to be a duty they owe to the citizens of Melbourne, and to the body of the colonists, to place on record their emphatic denial of the existence of any unfitness on the part of the inhabitants of this City and Province for the full enjoyment of all the rights and privileges of free-born British subjects ; and they cannot refrain from the expression of their extreme astonishment and regret that an attempt should have been made by the Chief Officer of the Government to prevent the Colony of Victoria from obtaining a Representative Legislature, and such an extent of civil liberty as had previously been promised to the colonists by her Majesty's Government."

In due course, a reply was received from the Secretary of State for the Colonies, in reference to the above resolution ; and the public were again lost in astonishment at perceiving that Mr. LaTrobe had sheltered himself from the burst of honest resentment which had been aroused against him by allusions to the opinion of a public meeting in Geelong as favorable to him, and inferring that the City Council of Melbourne did not represent the general feeling of the colonists. It was evident that a deliberate deception had been practised, and that his Lordship had been deceived ; a fact which spoke pretty strongly as to the mode in which information

was, in Mr. LaTrobe's time, conveyed from the Colonial officials to the Home Government. There was no public meeting held at Geelong; and the only ground that the Superintendent could have for making such an allegation was that, at the period alluded to, there happened to be a meeting of a committee of inhabitants, who had been nominated to watch over the Geelong Incorporation Bill during its course through the Legislative Council; and, on one occasion, about six or eight of these committee-men felt injured in their dignity, because the City Council of Melbourne had refused to recognise them as forming, at that stage, a duly constituted municipal and representative institution. They did pass a resolution cavilling at this; but it did not contain any expression of confidence in Mr. LaTrobe, or any attempt to justify his calumny against the people in his district. That gentleman, when he found Melbourne rallying, to a man, on the patriotic side, turned his attention to Geelong; he changed the place of nomination for the district from Melbourne to that town, and threw many little additional sops towards it; but the most he could obtain, in return, was quiescence. The western metropolis continued, under the system of misgovernment, subdued, but not contented. One or two, perhaps, of the natural leaders of the people had been bought; and Mr. LaTrobe really exhibited a disposition to oblige that district, so that its cordial co-operation in any popular movement, at this period, was hardly to be expected. But the people of Geelong—notwithstanding their natural jealousy of Melbourne—were sound at heart, and a very large number sympathised with the patriotic party in the metropolis. Earl Grey was, therefore, either deceived, or he wilfully misrepresented the matter; the people of Port Phillip believed the former to be the true state of the matter. They arrived at such a conclusion in this manner:—While Earl Grey did not condemn Mr. LaTrobe, he certainly did not condemn the people; and, in principle, he admitted that the nullification of their privileges was not blameable. In one of his despatches, written about this period, he said—"Local self-government, if necessary for the good of the whole colony, is not less necessary for a particular district. * * * Port Phillip representation has become an unreal and illusory—not a substantial—enjoyment of representative institutions." Such language might

not have been out of place in the mouths of those non-electionists so much condemned by Mr. LaTrobe.

When the election of the noble lord for Melbourne was referred to in the House of Lords, the following remarks were made :—

“ Lord MONTEAGLE—There was another point ; it was thought desirable that Port Phillip should be divided from the main colony of Australia. As the returned member for Melbourne, in Port Phillip, he might ask the noble earl, the Secretary for the Colonies, what his views were on this question (laughter). It appeared that the electors were so dissatisfied with the representation that, although they had six candidates, they chose to elect the noble earl (Grey) as their sole representative (laughter).

“ Earl GREY—They complained of the hardship of being called on to elect representatives to an assembly sitting at a distance of 600 miles from their own habitations ; they called such a scheme of representation ‘ a mockery,’ and, in order to show that they deemed it a mockery in fact, they had actually done him the honor to elect him as one of their representatives (laughter).

“ Lord STANLEY—Are you going to sit (a laugh) ?

“ Earl GREY—No. As I have had the honor to take my seat in this house, I intend to decline (a laugh). Now, with reference to the measure then immediately under consideration, he objected much to its postponement, although aware of the difficulties which, under present circumstances, might be interposed to its progress this year. He was most anxious that it should be passed, if possible, during the present session.”

The very sensible view which the noble Secretary took of the matter, no doubt, startled Mr. LaTrobe, who considered the conduct of the people, in making free with his lordship’s name, as little, if anything, short of treasonable. His Excellency Sir Charles Fitzroy had also adopted this impression, and had refused to insert the return of Earl Grey in the *Government Gazette* ; nay, he had written a despatch to express his concurrence in Mr. LaTrobe’s views, in which he said :—“ Mr. LaTrobe’s remarks respecting the memorial, and the extraordinary course pursued by the electors on the occasion referred to, appear to me to be so clear and judicious, that I feel it unnecessary to do more than express my entire concurrence with

them, and particularly with the concluding portion, which throws a doubt on the expediency in uniting [erecting?] Port Phillip into a separate colony, or of granting it a representative Legislature." But the more discerning Secretary of State saw the affair in a very different aspect, and did not condemn the course adopted by the people of Port Phillip.

Early in 1849 public meetings were held in both Melbourne and Geelong, in order to petition the Queen and the Imperial Parliament to extend the elective franchise to the licensed occupiers of Crown lands, and the tenant farmers. The propriety of allowing a fair representation to all classes of the community was unquestionable; but, so great had the jealousy of all the other classes of the squatters become, that the proposition to allow them the franchise met with great opposition. Indeed, in taking a retrospective glance at the amount of ill feeling entertained towards the squatters, at this period, the future historian, or intelligent inquirer, will be at fault in arriving at the true cause of such displays. No person could deny that, at this period, squatting was the main branch of industry, and that the gains of those who followed it made the colony what it was. The licensed occupiers did not, it might be said, buy the land which imported the labor, but they supported the merchants and tradesmen, who were the principal purchasers of the land, and the main contributors to the emigration fund; their success had been doubly advantageous, having enriched themselves and civilised the country. This was not to be denied; but the other classes began to discover amongst them a grasping spirit, and it appeared to be feared that they would endeavor to confiscate the great public domains which they occupied. In cases where they had erected dwelling houses of the annual value of £20, they already possessed the franchise; and many were opposed to allowing every licensed occupier to vote simply as a Crown tenant. The resolution was carried in the affirmative in Geelong, but lost in Melbourne, by a considerable majority.

In the month of March, 1849, the district was honored with a visit from Sir Charles Fitzroy, the Governor of New South Wales, who arrived in H. M. S. *Havannah*, 22 guns, Captain Erskine. His Excellency met with a most enthusiastic welcome; the *elite* of the

city turned out to meet him on his landing at Sandridge, and escorted him to the *Royal Hotel*, Collins street, where apartments had been fitted up for his reception. Sir Charles remained ten days in the district; he received deputations from all the public bodies of Port Phillip, and held levées in Melbourne and Geelong, which were most respectably attended. His Excellency well deserved the good opinion of the future inhabitants of Victoria for the concession he made to the colonists—that no convicts should be allowed to land contrary to their wishes. On his return to Sydney he was severely censured for having made this promise; but Sir Charles Fitzroy, probably, saw that the people of Port Phillip would resist the landing of felons, and that they would repel any such attempt by force of arms. He gave, however, as the ostensible reason for his conduct, that there would be a great difficulty, in the absence of the requisite machinery for the registration and discipline of any convicts which might be landed.

The Sydney Executive had been particularly niggardly in expending any of the money collected in the Port Phillip District on public works within its limits; but, in 1849, it took advantage of the contemplated dismemberment of the colony to refuse to spend any more money on any public undertaking. The Colonial Secretary wrote, in July, to the Superintendent, “that his Excellency had desired him to say that her Majesty’s Secretary of State for the Colonies having, in a recent despatch, incidentally intimated to him the immediate proposal of the separation of Port Phillip from New South Wales, it appears to his Excellency that the proper course will be to leave the initiation of all new works in that district for the consideration of the local Government and Legislature after it has been constituted a new colony.” This would have been unfair even if the money had been about to be reserved for the use of the new colony. Such, however, was not the intention, as not one farthing of the surplus revenue, thus wrung from the district, was ever returned. The course thus proposed by his Excellency was flagrantly unjust. Mr. Mackinnon gave notice of his intention to move a series of resolutions upon the surplus revenue which Sydney had thus taken by the strong hand; and one of the number stated—“That, as well to do an act of common justice to the inhabitants

of Port Phillip, as to vindicate the character of New South Wales proper from imputations of an unpleasant nature, which, under existing circumstances, may fairly attach to it, this Council declares it to be its deliberate opinion that the sum of £266,882 2s. 6½d., shown by the said returns to be the excess of revenue over expenditure in the said district of Port Phillip, from its first settlement in 1836, up to 31st December, 1848, together with all balances that may accrue from 1st January, 1849, up to the final separation of Port Phillip from New South Wales Proper, be paid back to the said district of Port Phillip, out of the general and territorial revenue of New South Wales proper, in the exact proportions in which each of these has been benefitted by the surplus revenues of Port Phillip." The motion was, however, withdrawn, and for very extraordinary reasons. Mr. Mackinnon said—"At variance with his own feelings, and at variance with what, he was sure, must be the feelings of his constituents, he was compelled to withdraw the notices of motion standing in his name. He was forced to this step because he had reason to know that one of his colleagues would oppose him, and the other had not made up his mind as to which course he should take. What was the reason for this course of proceeding he was at a loss to say: for he was sure they would have thought the motions very proper ones while they resided in Port Phillip; and it could only have been the atmosphere of New South Wales that had produced such a change in their ideas. His object in placing these motions on the paper was to elicit the opinion of the House upon every one of the points raised." A dispute, originating in this notice of motion, arose between Mr. Mackinnon and Mr. Moor, another of the representatives of the district which occupied the notice of the public; but it merely showed that much ill feeling existed. Each of the members had a pet plan of accomplishing the desired object; they agreed to differ in opinion, and nothing for the benefit of Port Phillip was accomplished. Indeed, as the money had, most probably, all been expended, Sydney had resolved not to pay back a farthing. The amount which the absentee Government of Sydney had squeezed out of Port Phillip was calculated to be about £400,000; it had been taken with the greatest effrontery, and every remonstrance

treated with neglect; and the resolution which was now taken, to expend no money on public works until separation, irritated the public mind, particularly as there seemed little probability of securing any portion of the revenues which were being collected. These substantial evils were aggravated by others of a social character; the colonists were not represented; their political privileges were dormant; for the representation in the New South Wales Council had, at last, come to be rated at its true value. The social and political condition of Port Phillip, at this period, was most unsatisfactory; the Executive department of the Government was administered by an officer who was responsible, not to the Imperial authorities, but to the Colonial Secretary, at Sydney; the Superintendent had no constitutional method of explaining his measures to the people; he was condemned, often justly, and sometimes, no doubt, unjustly, without being heard in his defence. The men of education and influence felt that they had no means of explaining their wants, and they would not take any part in State affairs. A disgraceful apathy, indeed, seemed to have come over the higher classes—

———“ The all-composing hour
 Resistless falls ; the muse obeys the power ;
 She comes ! she comes ! the sable throne behold
 Of night primeval, and of chaos old.
 Thy hand, great anarch, lets the curtain fall,
 And universal darkness covers all.”

The press of the district, however, continued indefatigable in its exertions to obtain justice; the claims of Port Phillip were urged; her unfortunate position, as a dependency of a dependency, daily commented upon; the weakness and wickedness of the Government was exposed; and, although separation was delayed, upon one pretext or another, it was, at last, wrung from the reluctant authorities of Downing street, very much to the private chagrin of New South Wales, whose public writers can hardly, even at this distant period, speak in terms of ordinary courtesy of the inhabitants of the southern district, who only struggled for their *independence* and just rights.

The great boon, so earnestly longed for, had been promised in 1849, as the quotation from the letter of the Colonial Secretary of

New South Wales will show; but, towards the close of that year, intelligence was received that, although the principle had been conceded, there was great danger that, upon one flimsy pretext or another, it would not actually be granted for some years. A Bill for the Better Government of the Australian Colonies had, it is true, been introduced; one of the main features of that measure was the erection of Port Phillip into an independent colony, under the name of Victoria; but several of its clauses provoked discussion, and the measure had to be withdrawn in order that it might be so amended as to meet the views of the various parties in the House of Commons. In the course of the discussion Earl Grey and Lord Stanley had expressed their desire that Port Phillip should be at once separated from New South Wales, and it was, beyond measure, disheartening to the colonists that a matter of such vital interest to their progress and prosperity should be mixed up with many questions on which those Whig and Conservative leaders could scarcely be expected to agree in opinion. A great meeting was held in the Hall of the Mechanics' Institution, on the 26th November, to consider the steps necessary to be adopted in consequence of the delay in separation. The chair was occupied by the mayor of the city, and the speakers were—Messrs. Ebdon, Moor, Foster, McCombie, Haywood, Hull, Fawkner, Annand, Kerr, Stephen, Young, Johnstone, Langlands, and Captain Cole. The resolutions pointed, most indignantly, at the wrongs which Port Phillip continued to suffer; and stated that, in the event of separation not being at once conceded, the people would be wound up to such a pitch of exasperation as must be highly detrimental to those feelings of attachment to the mother country, and loyalty to the Throne, which ought to distinguish a British colony. So violent was the indignation that these strong resolutions were carried by a large majority over others, of a milder character, submitted to the meeting. A division of opinion having, unfortunately, arisen, the meeting separated without adopting a petition; but a second meeting was held (opposite the Court-house), on the 6th December, at which the greatest unanimity prevailed, and a petition to the Throne was adopted, setting forth the injustice which Port Phillip had suffered, and praying that, irrespective of the general Bill for the Govern-

ment of the Australian Colonies, a separate measure might be introduced for the separation of the Province from New South Wales, and its erection into an independent colony, bearing the royal name of Victoria. Meanwhile, the trade of Port Phillip had been steadily increasing; the exports for 1848 amounted to £737,067, and the imports to £479,831. The ships inwards for 1849 were 484; and her pastoral pursuits had expanded with great rapidity.*

The financial minute of his Excellency, for the year 1850, was laid before the Council on the 19th June, and, in the estimated revenue and expenditure, Port Phillip and Sydney were, for the first time, divided, in anticipation of separation. The estimated revenue for the year was—for Sydney, £204,448 7s. 2d.; for Port Phillip, £123,650. The estimated expenditure was—for Sydney, £242,886 6s. 7d.; for Port Phillip, £123,212 18s. 11d. For the first time, Port Phillip appeared, now, likely to reap the benefit of its revenues; instead of paring down the expenditure to the lowest farthing for all the departments, there was exhibited a judicious liberality, for it was contemplated that separation would be immediately granted, and the appropriation of the revenue had become a merely nominal act on the part of the Legislative Council of New South Wales.

The Australian Colonies Government Bill went triumphantly through the second reading, and the clause which provided for the

*The following table exhibits the increase of stock from 1843 to 1848:—

No. of Horses.			Increase.	Per cent.	No. of Cattle.			Increase.	Per cent.		
1843.....	6,278....				1843....	167,200					
1844.....	7,076....	798	.....	12·7	1844....	187,900....	20,700	.....	12·4
1845.....	9,289....	2,213	.....	31·3	1845....	231,600....	43,700	.....	23·3
1846.....	11,400....	2,111	.....	22·7	1846....	290,400....	58,800	.....	25·4
1847.....	14,153....	2,753	.....	24·1	1847....	344,300....	53,900	.....	18·5
1848.....	16,495....	2,342	.....	16·6	1848....	386,700....	42,400	.....	12·3
Increase in 5 years 10,217....					162·7	Increase in 5 years 219,500					131·3

No. of Sheep.	Increase.	Per cent.
1843....1,603,000....		
1844....1,861,000....	258,000....	16·1
1845.... 2,450,000....	589,000....	30·0
1846....2,997,000....	547,000....	21·3
1847....4,398,000....	1,401,000....	46·7
1848....5,130,000....	732,000....	16·6

Increase in 5 years 3,527,000.... 220·0

separation of Port Phillip from New South Wales passed in Committee on the 22nd March. A very warm debate arose on the constitution of the Legislature, and an effort was made by Mr. Gladstone, Sir William Molesworth, and several other colonial reformers, to have the mixed House of Legislature altered into two chambers. After an abortive attempt, on the part of Sir William Molesworth, to have the Bill recommitted, in order to change its character, and give the colonists responsible government, the Bill passed the Commons. It was discussed in Committee, on the 10th June, in the House of Lords; and Lord Stanley opposed the federal clauses, and had them erased. On the 11th of that month an attempt was made, by the Hon. F. Scott and Mr. Robert Lowe, to obstruct the measure in its course in the Lords. The proposal that counsel (Mr. Lowe, of course) should be heard against the Bill, at the bar of the House, was not, however, entertained. Lord Monteagle, made an effort to have a provision introduced into it for a double chamber; the motion was opposed by Earl Grey, and, on a division, the ministry only carried the clause by a majority of two. Lord Lyttleton then moved for leave to introduce a clause empowering the Governors of the Australian Colonies, with the advice and consent of their Legislative Councils, to repeal any of the clauses of the Waste Lands Act; the motion was negatived by a majority of ten. The Bill was reported in the Lords on the 28th June, and passed the third reading on the 8th July. Lord John Russell introduced it to the Commons, as amended from the Lords, on the 1st August, and, after a prolonged discussion, during which the Hon. Francis Scott, the political agent of New South Wales, once more endeavored to obstruct the Bill passing into law, the House agreed to it as amended. Her Majesty, as a matter of course, gave the royal assent, and Port Phillip at length was free. The joyful intelligence reached the colony by the *Lysander*, from Adelaide, which entered Hobson's Bay on the 11th November, 1850.

That epoch, which had been so long anxiously looked forward to with an inexpressible longing by the old colonists, had now, at length, arrived; and the district which had been made the adopted home of many brave hearts had been, at last, formed into an independent colony, under the name of the most illustrious sovereign of the age.

In proroguing Parliament, a few days after the measure had become law, her Majesty said—"The Act for the Better Government of the Australian Colonies will, I trust, improve the condition of those rising communities. It will always be gratifying to me to extend the advantages of representative institutions, which form the glory and happiness of my people, to colonies inhabited by men who are capable of exercising with benefit to themselves the privileges of freedom."

The public mind in Victoria, as the colony was after this officially named, had been on the very tip-toe of expectation watching for the intelligence of the passing of the Bill. The people cared but little that it had been materially altered by the Lords, that the clauses which had reference to the Federal Assembly had been expunged, that the powers of the colonial Legislatures had been abridged;—they were so happy at the prospect of emancipation from the thralldom of Sydney, that they would have welcomed almost any Separation Bill, however objectionable some of its details might have been in principle. The city of Melbourne was illuminated on the evening after the intelligence arrived (the 13th November), and in no part of the world, at any period, has any community been more gratified. It appeared as if each individual had received some inestimable present, and was unable to conceal his gratification. The decorations in the windows expressed the triumph which had been gained over Sydney, and the gratitude that the colonists felt to the Queen and the Home Government for affording them even a tardy release from political oppression. The Separation rejoicings were extended over four days, during which period no work was done; all classes, even the printers, keeping the jubilee. Arrangements had previously been made for lighting beacons, throughout the colony, on the arrival of the intelligence. An enormous heap of firewood had been collected at the flag-staff hill, and the Mayor of the city set fire to it at sunset, as the signal for the commencement of the bonfires and fireworks which soon enlivened the whole of the country. Enormous heaps of wood had been prepared on all the commanding eminences of the colony. In Melbourne everything went off in an orderly and rational manner, and the people enjoyed themselves without giving way to the orgies of a Saturnalia.

On Friday, the 15th November, the Prince's Bridge was opened. The day was beautiful, and the whole of the inhabitants turned out to behold the ceremony, which was one of the most imposing that had hitherto been witnessed in the colony. The whole of the public societies and trades walked, and the printers had a large waggon in the procession, upon which a Columbian press, beautifully decorated with flags and ribbons, was mounted, the men, on the platform, printing a sheet containing a short historical notice of the Press of the colony, which was distributed amongst the crowds through which the procession moved. The gymnastic games concluded the rejoicings: the spot selected for this display was near the Emerald Hill, and above five thousand persons were present to witness the diverting scene which they presented to the lovers of frolic. During the five days that were appropriated to the festivities in commemoration of the greatest event which ever happened in Victoria, not one accident occurred to damp the ardor of the people for rational amusement. The death of Mr. Curr, who had taken a part in the great fight, and had been a leading politician in the district, upon the very day that the grateful intelligence arrived, was, however, regarded by all the old colonists as a melancholy coincidence. The people had intended to subscribe money to raise some lasting testimonial of the event, and several public meetings were held to carry out this object. It unfortunately occurred, however, that a division of opinion took place in reference to the character of the contemplated monument, and the intention was abandoned. The suggestion of a public library was, however, given; and the idea was so popular that the government took it up, and some years afterwards our magnificent public library, in Swanston street, was erected at the public cost.

The Act for the Better Government of the Australian Colonies did not arrive until the 13th January following. It came into force in New South Wales on that day; but the independence of Victoria actually dated from the day on which the first writs for the election of members to serve in the Legislative Council of Victoria issued, when, and not before, the District of Port Phillip was, by the Act, erected into, and, thenceforth, formed a separate colony, known and designated as the Colony of Victoria. But, while the

people were rejoicing over the prospect of their independence, an unexpected danger arose, in consequence of the Imperial Parliament having, most incautiously, invested an alien and adverse legislature with the power of settling the preliminaries for bringing the new Constitution into operation. The bright idea seemed to have been entertained by many of the members of the Legislative Council that, by refusing to pass the Electoral Districts Act for the new colony, they would retard the measure for a couple of years. Port Phillip was warned of the danger by the *Press*, a newspaper edited by Dr. Lang, and far more favorable to Port Phillip than the other Sydney journals. The majority of the Council had a very serious objection to the Act, inasmuch as the Lords had introduced a clause reducing the franchise, while a considerable minority in the colonial House deemed it not low enough; so that, in fact, it gave satisfaction to no class of politicians. The Conservative party would have gained nothing by nullifying the new Constitution for Victoria, unless the gratification of their malignant passions; as, although Port Phillip would have been in a very unenviable position, Sydney would have gained nothing by her misfortune. The attempt would, however, in all probability, have been made but for the avowed intention of the Governor, in event of its succeeding, at once to dissolve the House, and try a fresh election. It was doubtful if the country districts would, generally, have approved of the opposition to separation; and, as Sydney itself would have, most probably, gone against it, as endangering the £10 franchise, the great squatting constituencies alone would have cordially supported the treacherous Conservatives. These facts appeared to have deterred the enemies of the district from really attempting to carry out their plot. The Executive Government prepared the Bill for determining the number of members of which the Legislative Council of Victoria should consist, for making the necessary provision for dividing the colony into convenient electoral districts; for appointing and declaring the number of members to be elected for each district; for the compilation and revision of lists of all persons qualified to vote at elections; and for the appointing of returning officers, and all other details necessary to carry out the general election. A great public meeting was held on the 21st of

March, in the Hall of the Mechanics' Institution, Collins street, for the purpose of deliberating on the steps proper to be taken for securing a fair and equitable representation, and, also, for providing for purity of election by means of the ballot. The following gentlemen took part in the proceedings :—Drs. Palmer and MacArthur, Messrs. Kerr, Johnston, O'Shanassy, M'Combie, Hull, Fawcner, Westgarth, Tankard, Bear, Watson, and Major Mercer. The discussion on the first question continued so long that the meeting could not entertain the second ; and an adjournment was carried, in order that the ballot might be fairly entered upon. Several resolutions were put forward at the first meeting ; but the one proposed by Mr. Kerr—“ That this meeting regards population as the only true and safe basis of electoral power ; and is, therefore, of opinion that the division of the colony of Victoria into electoral districts should be determined in accordance with that principle, by the establishment of districts, containing, as nearly as may be, an equal extent of population, each district to return one member only,”—was affirmed by a considerable majority. Dr. Palmer argued in favor of giving only one-half of the representation to two-thirds of the population and wealth of the province ; he proposed to accomplish this by giving the counties of Bourke and Grant one-half of the representatives, and to divide the remaining half amongst the other parts of the colony. This proposal met with little favor ; indeed, the only question on which any real difference of opinion appeared to exist was, as to whether the principle of equal electoral districts should be applied, in the same way, to the towns as to the country ; for some, who were in favor of the principle in general, were averse to cutting Melbourne, and other towns, up into electoral districts. The members who had been elected to represent Port Phillip were present, in order to acquire a more accurate knowledge of the wishes of the people, and took their departure the day after, to be present at the opening of the Council.

The last session of a New South Wales Legislature, possessing any authority in Port Phillip, was opened on the 27th March by Sir Charles Fitzroy, who stated that the object for which he had called the members together was, the enactment of the measures necessary to give effect to the provisions of the Imperial Act for the

Better Government of the Australian Colonies; that the necessary bills had been prepared, and would, at once, be submitted to the House.

The Victoria Electoral Districts Bill* gave general dissatisfaction. The total number of members proposed was thirty, ten of whom were to be Government nominees, leaving twenty to be elected by the people; and Melbourne, with a third of the population of the whole colony, was only allowed three members. The people of

* The following table will explain the electoral districts under the new act, with the population and stock at the period of the passing of the measure, in 1851:—

VICTORIA.

PROPOSED ELECTORAL DISTRICTS—POPULATION—STOCK.

No. of Members.	Proposed Electorate.	Population. 1851.	Live Stock returned for assessment, equated as Sheep. 1851.	Licences.	No. of Members.	Proposed Electorate.	Population. 1851.	Live Stock returned for assessment, equated as Sheep. 1851.	Licences.
2	Bourke	17,469	132,733	28	1	Talbot	893	272,320	25
1	Grant	4,469	352,629	44		Dalhousie	790	221,915	28
						Anglesey	568	199,006	28
1	Normanby	1,505	388,928	57			2,251	693,241	81
	Dundas	911	459,812	40					
	Follett	648	120,960	32	1	Evelyn	871	23,214	9
		3,064	969,700	129		Mornington		93,760	41
								116,974	50
1	Villiers	2,705	521,361	46					
	Heytesbury	59	70,175	13	1	Gipps Land	1,770	360,913	65
		2,764	591,536	59	1	Murray District ..	2,693	1,069,185	146
1	Bipon	814	385,576	26	1	Loddon District ..	1,127	693,889	76
	Hampden	729	490,460	35	1	Wimmera District (includes a portion of the Loddon Dis- trict)	2,019	1,114,755	125
		1,603	886,036	61					
1	Grenville	322	371,037	31					
	Polworth	1,552	159,366	22					
	(includes a portion of Grenville)								
		1,944	538,403	53					

Melbourne, population 23,143, 3 members. Geelong, population 8,243, 2 members. Portland, population 1,025; Belfast, population 964; Warrnambool, population 383; total 2,372, 1 member. Kilmore, population 1,137; Kyneton, population 296; Seymour, population 117; total 1,550, 1 member.

SUMMARY.

No. of Members.	Proposed Electorates.	Population. 1851.
3	Two Agricultural Counties	21,938
7	Seven intermediate Districts, including Gipps Land	14,275
3	Pastoral Districts	5,839
7	Four Urban Districts	35,308
20		77,360

Victoria petitioned against the measure, but the Council declined to make any alteration; indeed, the members did not wait for any remonstrance, but entered upon the consideration of the Bill in committee on the 22nd April, at a quarter to four o'clock in the afternoon, and, by seven in the evening, they had settled the distribution of the representation of the colony. An amendment of Mr. Ebden's, to give Melbourne four instead of three members, was lost by sixteen votes to eight, although supported by all the Port Phillip representatives, as well as by Dr. Lang, and Messrs. Lamb and Oakes. A motion to give three members to Bourke, and another, to increase the members of the Legislative Council to thirty-six, were both lost, and the Bill passed without any material amendment. The Colonists of Victoria regarded it as a very objectionable measure, inasmuch as their desire to have population made the main basis of representation was not taken into account in the distribution. The electoral district of Melbourne had only a member for every 7,714 people, whereas Belfast and Warrnambool, with a population of 1,347, had one member, and Portland one, with 1,025; North Bourke had only one member for 6,546, and South Bourke but one for 5,256, while Gipps Land had a member for 1,770, and the Loddon for 1,127.

The last act of tyranny perpetrated by New South Wales towards Victoria has now to be considered. By the division between the middle and southern districts, as settled by the Imperial Government, in 1840, and announced to the colonists in a despatch from Lord John Russell, of date 1st May, of that year, the large country known as the Tumit and Murrumbidgee district formed a portion of Port Phillip, and the Billibong Creek was supposed to be the proper dividing line. The Lord Bishop of Australia had moved an address to the Crown against this boundary, and the Imperial authorities were induced, in the new act, to adopt his Lordship's view. An attempt was now made by the Port Phillip members, assisted by the Rev. Dr. Lang, to have the matter adjusted in an equitable manner, but this Mr. Wentworth opposed, and the boundary for the time was left as settled by the act; and Victoria was unjustly deprived of one of her most flourishing provinces. It is more than probable that, in a few years, this will form an independent colony, as it has

direct water communication with the sea, by the Murray, and will not long remain a mere out-district of New South Wales.

On the 25th of April, 1851, a message was sent down by Sir Charles Fitzroy to the Legislative Council of New South Wales, transmitting the draft of a Bill for extending the laws of New South Wales to the colony of Victoria, until they were altered or repealed by the legislature of the latter colony; and on the 29th of the same month the Bill was read a first time, read a second time on the following day and passed without any discussion. The last session in which Port Phillip formed a part of New South Wales immediately afterwards came to an end. The Colonial Secretary of that colony expressed the good wishes of his government towards the new colony; but no financial explanation was given. During the long period that Port Phillip had been plundered there had been hopes continually held forth to the people that, when separation was conceded, there would be an account current made out between the two colonies, and the balance owing Port Phillip paid over to her; indeed, the superintendent had, upon several occasions, encouraged this impression, and his partizans had urged that all the surplus revenue taken to Sydney would be repaid. The colonists of Victoria were rather disappointed that the financial obligations of New South Wales to the new colony were not even alluded to, and were apparently the very last thing which the Sydney politicians had in view. The good wishes of the Colonial Secretary were, therefore, taken at their true value both in Melbourne and Sydney.

On the 1st July his Excellency, the Governor-General, issued the writs for the election of members to serve in the Legislative Council of Victoria. That act constituted the legal separation of the new Colony from New South Wales, and gave it a separate and independent existence.

CHAPTER XIV.

New system of Land Management attempted to be introduced, Squatting Licenses within the settled districts abolished, and the holders compelled to become land owners—The Climate of the colony—The Drought of 1851—Black Thursday, and awful destruction of life and property through bush fires—The Sanatory condition of Melbourne and exertions of the committee of the City Council—The Water supply—Communication between Melbourne and Hobson's Bay—The great improvements in Collingwood—Geelong incorporated—A shepherd from the Pyrenees offers a large lump of gold for sale—Expedition of Chapman, Brentani, Forester, and Duchene—Discovery of gold at the Plenty and Anderson's Creek—The Clunes, Ballaarat, and Forest Creek are worked—Mr. LaTrobe officially installed as the first governor.

THE increase of population had now rendered it necessary that squatting should be in some degree checked. The lands of the colony had, for the purposes of the orders in Council, been divided into three classes, viz., the settled, intermediate, and unsettled. The first contained the lands most accessible to the people; and it was here that the first direct blow was dealt to the squatters. The orders had authorised the Governor in Council to grant leases of land (exclusively for pastoral purposes) for one year, and, if he deemed it expedient, to make general rules under which the holders of purchased lands within the settled districts might be allowed to depasture stock, free of charge, on any adjacent Crown lands. At this time the lands within the settled districts were held by three classes—the owners in fee, the holders of occupation licenses, and the holders under squatting licenses. The total annihilation of the latter interest at this period is an important event, and forms a landmark in the history of the progress of civilization in the colony. The management of the unsold lands is intimately connected with the good government and prosperity of any new colony. The local administration at this period cannot be passed over without censure; in the management of the land it displayed a great deal of vacillation and incompetency. In attempting to carry out the spirit of the Orders in Council, a code of regulations had necessarily to be framed, and a considerable discretion had been left in

the hands of the Executive; this power exhibited to the world that it was very incompetent to deal with the task which had been thus, in all confidence, left to it by the Imperial authorities.

During the ten years that the province of Port Phillip had been settled it had been daily progressing in population and wealth. Vast interests had been silently growing up, and new classes were beginning to emerge into importance. All depended upon the land. The first wealth of Port Phillip was acquired from pastoral pursuits, and nearly every person was either directly or indirectly engaged in squatting. The tenants of the Crown had been informed that they only held the land until required for a denser population, and that, so soon as sheep and cattle could be replaced by people, it must be relinquished by the squatter in favor of the *bona fide* cultivators; but the evil day appeared distant, and those in actual possession laid the flattering unction to their souls that a very considerable period would, in all probability, elapse before their right would be questioned. The first victims to progress were the squatters within the settled districts, who had remained quietly in possession without observing the course which events were taking; indeed, they appeared not to have reflected on their danger until threatened with instant and utter annihilation. Many of the class were amongst the first who had arrived with stock, who had settled in close proximity to the coast and had not been so enterprising as some of their neighbors. Being in comfortable circumstances they had not desired to change their position, and hoped that they might not be disturbed in their life-time. They were, however, nearest to the advancing tide of civilization, and had first to be swept away by it. The proclamation of the 29th March, cancelling the regulations of the 21st August, 1841, for settlement within the bounds of location, and in pursuance of Her Majesty's order in Council, of 9th March, 1847, establishing new regulations for occupying lands within the settled districts, fell like a thunderbolt upon the unsuspecting occupiers of squatting runs. By the new system the owners of land in fee were to be permitted to use the vacant Crown lands immediately contiguous to their properties free of charge; but this permission was not supposed to give any other than a right of commonage. Those persons, however, who owned a square mile of purchased land could demand

a lease of three adjoining sections of a similar size, at the nominal rent of ten shillings a section; but no smaller quantity was, under any circumstances, to be let; and the land held under squatting license was to be immediately withdrawn on being either required for sale or applied for under the right of pre-emption.

This may be regarded as the commencement of the great conflict between squatting and civilization, which has since been going forward amidst much excitement and acrimonious feeling, and which divided colonial society for years into two bitter and contending factions—those who had got a share of the public domain, and those who had not been so fortunate. The Government found it necessary to introduce a change of system, and the squatters within the settled districts being, for the most part, a weak and friendless class, their ruin created no great sensation. The rich and influential squatters in the intermediate and unsettled districts viewed the immolation of their poorer brethren without joining in any effort to avert it, deeming themselves quite secure from molestation.

It was anticipated that the new code of regulations would be inaugurated in the settled districts on the 1st January, 1849, and it was not until the 11th October, 1848, that the classes most interested aroused themselves, and, shaking off that apathetic feeling which had been their distinguishing characteristic, entered the arena of public life, in order to delay, if possible, the movement which threatened to engulf them. A meeting was held, and resolutions adopted to the effect that the new regulations would depress the value of stock, and totally ruin a numerous class of respectable colonists, who had contributed large sums of money to the public revenue, and who had mostly been Crown tenants for the long space of ten years. A memorial, setting forth the injustice and impolicy of the proposed measure, was adopted and presented to the Executive. This would not, perhaps, have had much efficacy in that quarter, had it not happened that a large class in the middle district was affected injuriously by these regulations, and the rules were found ambiguous, contradictory, inconclusive, and, in some cases, incomprehensible, instead of being simple, complete, and easily brought into operation. His Excellency resolved to modify them, and a second notification appeared in the *Gazette*, dated 21st November, 1848,

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directing that persons in actual licensed occupation of runs might purchase any portion of them not less than thirty acres; and that they might continue to occupy their stations as before. The new regulation was, in fact, only applicable in practice to the class who occupied land in the settled portions of the middle district, but it answered well the objects of the squatters in the Port Phillip district, by prolonging their term of occupation. They were allowed until January, 1849, to forward their applications. The Government had then to send officials to mark out thirty acres, which, considering the small staff of surveyors, was a work of time. The land was applied for, but in few cases actually purchased. The time occupied in the surveys was very useful to those interested, as it gave breathing time to look about them, and decide upon the best course to pursue.

A class will meet with little sympathy under oppression when the exigencies of a country render them necessary victims. The squatters in the settled districts had become exposed to ruin from the very cause by which they intended to make their fortunes. The land nearest markets and the sea, and, of course, the most valuable, was first required by the people, and there was no man bold enough to stand forward and say they should not have what was their own. The Government allowed those about to be deprived of their runs a period sufficient to enter into such arrangements for their future support as they could, and most of them were wise enough not to neglect the opportunity. Finding that the new system must ultimately be brought into operation, most of them managed to purchase sections which entitled the holders to large pre-emptive rights. In the course of a few years, when, by the discovery of gold, real property advanced, these purchases placed the whole of these quasi-squatters in a most independent position.

Victoria is blessed with as salubrious and agreeable a climate as any country in the world. There is one material draw-back, however, in the north winds which occasionally blow during the summer months, and which are often very oppressive. The thermometer frequently ranges as high as 100°, and, occasionally, 105° in the shade; but those who can seclude themselves within doors, and carefully exclude the warm air, seldom suffer much annoyance

from them. But there are sudden changes of temperature which are peculiarly trying to the physical frame. The colony is exposed both to the desiccating winds from the desert and the cold sea breezes, so that the thermometer sometimes falls twenty-five to thirty degrees within a very short space of time. In the year 1851 the colonists had to contend with a severe season, not dissimilar to the droughts which have been so prevalent in New South Wales. The heat continued until May and June, and no rain fell until about July and August. Food and water became scarce in every district, and the stock perished in great numbers. The swamps and plains were strewn in every quarter with the carcasses of the cattle and sheep which had died, and a general gloom overspread the country districts.

The 6th of February of that year has already obtained a place in history, and is generally known as Black Thursday. For two months preceding, the country had been under the desiccating winds, which appeared to be highly charged with electricity. The herbage was parched up, and every thing that the eye could rest upon was dry, dusty, and disagreeable. The 6th of February dawned much as very hot days generally do: the roseate tints of the horizon were rather brighter and more lurid than usual—the glassed glare over the sky more vividly perceptible. The north wind set strongly in early in the morning, and by eleven o'clock in the forenoon it had increased to almost a hurricane. In the streets of Melbourne the heat was intense, and the atmosphere densely oppressive. Clouds of smoke and dust hung over the city. The fires which blazed in the surrounding country no doubt increased the suffocating sensation which was generally experienced. It was hardly possible to go abroad; the streets were nearly deserted; and the few persons who were compelled to make the effort to traverse them stalked along with their faces closely enveloped in cloth; no man, however bold, appeared able to face the furiously-suffocating blast, which seemed to wither up their physical energies. By noon, the inhabitants, generally, had shut themselves up in their various dwellings, too happy to have got out of the reach of the overpowering blast. They continued to sit until night listening in terror to the howl of this real sirocco. Had any portion of Melbourne ignited the whole

of the city must have been reduced to ashes, as no effort of the inhabitants could have prevented the conflagration from extending and becoming general. The citizens were providentially preserved from so terrible a disaster. In the country the scene could hardly be portrayed. Early in the morning the wind increased to a hurricane, and bush fires swept across whole districts with the speed of lightning; crossing roads and wide streams; destroying men, women, and children, cattle and sheep, crops, fences, houses, and, in fact, everything that stood in its way. The devouring flames spread everywhere, careering along the dried herbage on the surface, dancing up the large forest trees, and wantoning in the excess of devastation. When the flames first appeared, many brave men attempted to impede their progress, and avert the ruin of their hopes. They endeavored to meet the devouring element, and beat it back with green boughs. But these attempts were useless; for the fire swept over them with a giant's strength, as if in mockery of such puny efforts, leaving them charred and lifeless lumps on the ground where they had stood. The herds and flocks, the wild beasts and birds of prey, the reptiles, and other animals, endeavored to flee, but were speedily overtaken, and fell a prey to the crackling and roaring flames. The Black Forest was, on the morning, healthy and verdant (as the leaves of the trees, even in the summer heats, seldom change their dusky green color); in the evening, nothing could be seen for fifteen miles, from Gisborne to Calshruie, but charred and blackened trunks. In the majority of cases it was impossible to know how these fires occurred. The whole country, far and wide, was filled with dense clouds of smoke; the thermometer ranged from 118° to 119°, in the shade, throughout the day. The settlers, generally, were not aware of their danger until the furious roar of the bush fires broke upon their ears, when they had to fly, and abandon the whole of their property. Not a few escaped death by taking shelter in creeks and water-holes until the violence of the fire had abated, and the atmosphere had become bearable. Some individuals were eighteen hours in the water, and, in one or two instances, died in consequence of this exposure, notwithstanding the intense heat. There were many persons travelling in the bush who had narrow escapes, as they became suddenly enveloped in the

flames, and almost suffocated in the sweltering fumes of the surging blast. Could a more awful situation be pictured? The traveller started on his journey without anticipating danger; the wind from the north gradually rose in violence; the hot, fiery, blazing blast at last appeared charged with an unusual element; then the smell of smoke was perceived, and, in an incredibly brief space, the whole bush was in one universal conflagration. Amazed and terrified, the solitary bushman found himself face to face with destruction, and that, too, in the most awful form that death could come. Those who were caught in the jaws of this flaming tempest were withered up like a scroll. The only escape was to gallop, if possible, out of the line of the fire, or take shelter in water. Many, that day, had a hard race for their lives, and the intense heat acted upon their frames so severely that they were parched up to a degree which they had before deemed impossible. The craving for liquid in such circumstances was intense, and the thirst almost intolerable. The wind suddenly changed towards night-fall, and, at ten o'clock, the thermometer had gone as low as 80°. What a scene did the morning of the 7th present? The most fertile districts were utterly wasted; the flocks and herds had, in many cases, been abandoned by their keepers, who fled for their lives; the inhabitants of the country who had escaped were utterly destitute, and the greatest amount of suffering had to be endured by the ruined colonists.*

* The following case may be instanced. It is one of many, but it created no little sympathy. It is extracted from the *Port Phillip Gazette*, of the 11th February, 1851.

"CORONER'S INQUEST.

"Before W. B. Wilmot, Esq., Coroner for the district, and a jury of householders.

"An inquest was held, on Saturday night last, at the 'Travellers' Rest,' Collingwood, on the bodies of Bridget, John, James, Joseph, Mary Ann, and William McLellan—the unfortunate family who perished in the late bush fire at the Plenty. The conveyance containing the bodies did not arrive till some time after it was expected, and when, at last, it entered the yard of the Inn, and the coverings were removed from the bodies, a more harrowing spectacle can scarcely be conceived than was there presented to view. The bodies were quite charred, and those of two of the children were much mutilated. The bereaved husband and father, who had been previously brought to the inn, appeared to be in a very precarious state, from mental as well as bodily suffering. The Coroner, in accordance with the dictates of humanity, did not shock his wounded feelings by any questions relative to the calamitous event, but ordered his immediate removal to the Hospital.

The people made very great exertions to alleviate the sufferings of these unfortunate colonists; a public meeting was held in Melbourne, and attended by all the leading men in the metropolitan district, and a large sum of money subscribed, which, under the direction of a committee, was distributed amongst the unfortunate individuals who had been left in a state of destitution.

Melbourne, as has already been stated, was not a healthy place of residence during the first few years; the inhabitants and the City Council made every exertion in their power to remedy this evil, and various public meetings were held in order to consider the matter. In 1848 the City Council appointed a committee which took evidence and brought up a report; this document had, no doubt, a considerable effect in raising the sanitary condition of the city, and thereby promoting the health of the citizens.* The various recommendations

"The inquest then commenced. The first witness examined was a shepherd, named Alexander Miller, who stated that the country around McLellan's residence had been on fire for the last fortnight, but the flames did not approach the station until Thursday last, on which day they spread rapidly. He endeavored to drive his sheep to the home station, but, on his arrival there, found it on fire. Called to the inmates, but received no answer. Was unable to reach the hut, on account of the fire; and, in order to preserve his own life, he left the sheep and made for the creek, where he remained immersed in water the whole day. On his return to the hut, he found Mr. McLellan, who informed him of the death of his wife and children. Witness then went to give information of the disaster, and returned with a dray to assist in searching for and removing the bodies, which were found a short distance from the hut, burnt to a cinder, and terribly disfigured.

"George Paush, a laboring man, stated—that he knew Mr. McLellan, and, on hearing of the fire at the station, and the death of Mrs. McLellan and family, he set out for the purpose of rendering what assistance he could; the witness considered, from the relative position of the hut to the flames, that it would have been utterly impossible for any person in the hut to have escaped alive. On his arrival at the scene of devastation, he found the bush on fire in every direction, and Mr. McLellan's hut and out-buildings reduced to ashes; the bodies of the deceased were all lying at the back of the hut. Witness assisted in putting the bodies in the conveyance provided for them.

"The Coroner said that it would be easy to adduce much more evidence than had been hitherto given, but he put it to the jury whether more was required, especially as the prevalence of bush fires on that unfortunate day was so notorious.

"The jury returned a verdict to the effect that the deceased persons came by their death accidentally, from the extension of a bush fire to the hut in which the deceased persons were residing."

* The following extracts from this report will be read with interest:—"It seems to be admitted on all hands that the city of Melbourne is not merely in a naturally

of the Committee were successfully carried out; a Building Act was obtained in 1848; the filthy lanes in the city were formed and drained, and the City Council placed the sum of three hundred pounds at the disposal of their surveyor, to enable him to have the country surrounding Melbourne properly surveyed, and a Committee was appointed to superintend and direct the operation. On the 7th of January, 1851, Mr. James Blackburn sent in an elaborate report, in which he entered fully into the whole subject, and recommended the plan which was soon afterwards adopted. The advantages of this scheme, indeed, were not quite new to the colonists, as public attention had been drawn to them some years previously by Mr. Patrick Reid, of the Plenty, at one period a member of the City Council of Melbourne, and a gentleman of very considerable information. It is but just, moreover, to state, that this public work, as

healthy situation, but that the climate is salubrious; accidental, local, and remedial causes have occasioned the greater portion of the disease which has hitherto occurred; in particular, they may point out amongst the most prominent the want of sufficient drainage, the filthy condition of the narrow streets, courts, alleys, and back yards; the slaughtering of sheep and pigs on the premises of butchers within the city, without adequate means of cleansing by sewerage; and an abundant supply of pure water to carry off the blood and filth from the premises of the slaughterer, and the contiguity of the public slaughtering and melting establishments; and although your Committee do not feel warranted in recommending the Council to remove the two boiling-down establishments in close proximity to Melbourne, yet, as such works are admitted to be injurious to the public health, your Committee recommend the Council in future to prevent the erection of any similar establishments so nigh to the inhabited portions of Melbourne; indeed, the day is not distant when it will be necessary to adopt measures for the removal of those already in operation. The large swamp on the eastern side of the city, known as Lake Lonsdale, is moreover admitted to be most injurious to the health of the citizens, from the noxious vapors it emits in warm weather; and those resident in that quarter complain loudly of the injurious effects of the nuisance upon the health of their families.

"Universal experience has proved that the health of animals is prejudicially affected by exposure to organic matter in a state of decay, and that the accumulation of animal and vegetable refuse must necessarily be attendant upon the congregation of human beings into the confined limits of large cities, thereby creating putrid and noxious vapors, which both predisposes to disease and fans its fury where it has already entered. The diseases which prevail at particular seasons in Melbourne may be attributed to the crowding, the want of water, the absence of sewerage, the non-removal of decayed animal and vegetable refuse, and the poisonous liquid and gaseous matter generated within the city. * * *

"Your Committee, having given their conclusion after a careful examination of the subject, would remark that they have been constrained to divide their recommenda-

well as the improvement of the health of the city, was materially benefitted by the labors of Mr. King, the Town Clerk, a faithful and zealous public servant, who had held office from the inauguration of the Corporation until 1851, when he was appointed by the Victorian branch of the Anti-Transportation League to proceed to England as its accredited agent.

The communication between Melbourne and the Bay had also attracted a very considerable amount of attention, and, urged on by the City Council, the local government had caused a survey of the Yarra to be made by Messrs. Gerrard and Manton; but, notwithstanding that the subject was most pertinaciously urged upon the attention of the officer administering the government, no steps were taken beyond the occasional use of the dredging machine, to improve the river,

tions into two classes: Firstly, such recommendations as are not within the present ability of the Council to carry out from lack of pecuniary resources, the inefficiency of the law, or from other causes: and Secondly, such recommendations as your Committee deem themselves warranted in recommending for immediate adoption, trusting that the propriety of this arrangement will, at a glance, be recognised by the Council.

- "1. Of the first division is a proper system of sewerage upon some comprehensive plan such as may recommend itself to the Council.
- "2. An Act to levy the Sewerage Rate.
- "3. A sufficient supply of Water.
- "4. Preventing the erection of any new slaughtering establishments.
- "5. The framing of a Building Act.

"UNDER THE SECOND DIVISION:—

- "1. To request the Legislative Committee to frame a Bye-Law for the prevention of slaughtering stock of any description within the inhabited portions of the city of Melbourne.
- "2. To request the Mayor of Melbourne to enforce as stringently as possible the various provisions of the Town's Police Act; and use every precaution to remove the masses of filth and offal which disgrace many portions of the city.
- "3. To carry out, as far as practicable, a system of surface drainage, by rendering the water channels in the several lanes and streets in the city free from obstructions.
- "4. To apply to the Executive for authority to clear the space between Melbourne and the Beach, so that the obstruction to the free access of pure sea air may be removed.
- "5. To point out to the Government the danger to the public health from the system of laying out a narrow lane alternately with a wide street, and urging the propriety of forming the streets henceforward of a uniform width.

"THOMAS M'COMBIE, Chairman."

or facilitate communication with Hobson's Bay. The opening of the railroad supplied, in some degree, the want so long experienced, and if two stone piers were formed, one from Sandridge and another from Williamstown, a safe and commodious place for vessels to load and discharge their cargoes, at a trifling expense, might be formed.

In 1851 a great improvement was effected in the north-east portion of the city of Melbourne, which is generally termed Collingwood. The land on which this populous district stands was originally sold in large blocks as suburban lots, and was cut up by private persons into small building lots. There were, however, no main thoroughfares, Brunswick street being in various places impeded by buildings, which had been erected across or along its superficies, as the taste of the owners had dictated. The Corporation, by means of legislative measures, cleared the main streets, and extended them in regular order through the whole of the district. This was a very important improvement, and rendered Collingwood an elegant and healthy part of the city.

Geelong, which had been gradually rising into importance as the capital of the west, was incorporated in October, 1839, by an Act No. 40, 13 Victoria, which passed the Legislature of New South Wales. The municipal elections created some attention, and Dr. Thompson, the oldest inhabitant of the district, had the honor of wearing the civic mantle for the first year; the Council was a very respectable body and managed the business of their town in a creditable manner.

The great transformation of the colony in the golden era renders a full description of the discovery of auriferous deposits necessary. When this event took place there was a population in Victoria of about 75,000 persons, and the gross revenue from all sources exceeded £200,000. The infant settlement exported a larger quantity of wool than New South Wales proper; and had grazing on its waste lands 6,000,000 sheep and 400,000 horned cattle. The metropolitan city had a population of 25,000, and its assessed rental was £100,000.

In the month of January, 1849, a person, attired in the humble garb of a shepherd, entered the shop of Mr. Charles Brentani, who

followed the business of a watchmaker and jeweller, in Collins street, Melbourne, and offered to sell a piece of quartz, richly interspersed with gold. A great many questions were naturally asked, and, in reply, he described himself as a shepherd upon a station in the Pyrenees, in which locality he had picked up the gold; he added that he knew where there was plenty more to be procured. Mr. Brentani obtained the assistance of two working jewellers, Duchene and Forester, and had a proper assay made. The mass was found to be pure gold, and the shepherd, who gave his name as Chapman, was sent for and fed and clothed by Mr. Brentani, who listened in amazement to the description which was given by his lodger of the auriferous regions on the Pyrenees. Excited by dreams of treasure, he planned an expedition that, in company with the lucky shepherd, should proceed to the spot. The party left Melbourne with the utmost secrecy, taking with them a dray which they proposed to fill with gold. Mr. Duchene returned to Melbourne some time after; it appeared that his more knowing companions had, according to his statement, given him the slip, not desiring that he should share in their good fortune; but this account did not appear satisfactory to Mrs. Brentani, who seemed to have a pretty good guess of the errand her husband had gone out upon, and, in her alarm for his safety, she charged Duchene with having taken away his life; and, to save himself, he made a full disclosure of all the particulars. So far from allaying the terror of Mrs. Brentani, these facts only increased it, and Duchene, who was a Frenchman, would, most likely, have been incarcerated upon the charge of murder had not Brentani and the party opportunely returned. The public curiosity was naturally excited by the strange disclosures which had been made, but all inquiries were for a while avoided. The party, however, had picked up two large nuggets weighing upwards of 20 oz. each. But the most extraordinary part of the affair was, that Chapman had disappeared. How, or under what circumstances, it is impossible to say, as the whole story is involved in mystery. That the gold was found in the place indicated by him appears certain; and it is to this strange individual, therefore, that we are indebted for it; but he never again re-appeared on the public stage to satisfy public curiosity, or receive the credit which was his due for the discovery

which was to have so much influence upon the whole civilized world.

Gold is occasionally picked up on the surface of the ground, as in the case of the aborigines, who, in the year 1851, brought a nugget weighing 106 lbs. to Dr. Kerr, a gentleman residing near Bathurst, and of various masses picked up on the spot where the Ballaarat diggings now are. There can be no doubt that Chapman's specimens were taken from the surface, not alone from their appearance, but because he had no implements with him for digging and washing the auriferous soil. The affair created a great sensation, but no more gold made its appearance at this time, and the matter soon sank into oblivion. The Pyrenees were no more heard of until 1851, when Dr. Bruhn, a German mineralogist, gave out that he had discovered gold near the scene of Chapman's adventures; but even at that date the statement did not command very much attention. In the month of May, 1851, the country near Bathurst, in New South Wales, was found to be auriferous. This discovery was made by Mr. Hargreaves, a colonist, who had gone to California, and returned after a short residence in that country. The Government despatched Mr. Stutchbury, its geologist, to the spot, who confirmed Mr. Hargreaves' statement as to the presence of gold in the soil. This great event created a mighty sensation throughout the whole of the Australian colonies; the police force of New South Wales deserted with the object of becoming gold diggers; tradesmen and domestic servants rushed in hundreds to Bathurst; the cry, says a gentleman who was at this period in Sydney, was, "The mines! the mines! What, ho for the diggings! Get bags; every one is off—the excitement is awful, and all the laboring classes are *en route* or going off to Bathurst." The mania soon reached Melbourne, and many persons began to prepare for a change of residence in order to share in the golden harvest. This discovery in New South Wales, immediately after the separation of the southern district, raised the spirits of the people of Sydney, and depressed those of the citizens of Melbourne in a corresponding degree; it began to be feared that the population would be induced to abandon the southern for the northern colony, and that the value of property would be materially reduced. A public meeting was held on the

9th June, 1851, and it was determined to offer a reward to any person who should disclose to the committee appointed at the meeting a gold mine capable of being profitably worked, provided it were within 200 miles of the city of Melbourne. A committee was nominated.* A few days afterwards Mr. Henry Frencham, reporter to the *Port Phillip Gazette*, Mr. Walsh, jeweller, of Swanston street, with one or two other gentlemen, proceeded to the Plenty ranges, amongst which gold was said to exist, and where, at the time, two hundred persons were scattered about searching for the precious metal. This locality had probably been selected in consequence of two persons, named Sharp and Armstrong, having (as it was reported) discovered a small quantity of the precious dust there, about ten years before. They had sent it, when discovered, to Van Diemen's Land, but, receiving no return, they had abandoned the pursuit, after enduring the greatest hardships and privations. In the *Port Phillip Gazette* of the 14th June, the editor announced that his reporter, "who had been scouring the Plenty ranges with the two-fold purpose of supplying the public with the latest intelligence, and of enabling them to decide if gold did really exist," had actually come on that which he was in search of. A letter then followed from the gentleman, stating that he had discovered gold on a foundation of sandstone and slate, with perpendicular veins of quartz; the specimens were subjected to the usual tests, but the results were not so satisfactory as could be desired; the first gentleman (Beurteaux) who tested it discovered gold, which he exhibited to the committee; on the other hand, a portion of the same specimen had been handed to Mr. Hood, a practical chemist, who was unable to find any gold in them. The committee, therefore, declined to pay Mr. Frencham the reward; but on proceeding again to the locality, he actually discovered gold. By this time other gentlemen had published to the world that they had found auriferous deposits in various localities; Mr. Frencham has, however, the credit of having found out a rich digging; he named it, in honor of his employer, and, because the first diggers were Scotchmen, the "Caledonian," which it still continues to bear.

* The gentlemen who composed it were: Messrs. Nicholson, Westgarth, Hodgson, Russel, M'Combie, O'Shanassy, Greeves, Fawkner, Grice, Davis, Hood, Bell, Hart, Heales, and Gumbiner.

But, there appears no doubt that the next individual, after the mysterious Chapman, who found the auriferous metal was William Campbell, Esq., of Strath Lodden, and a member of the first Legislative Council of Victoria. In the month of March he observed minute pieces of gold, in quartz, on the station of Mr. Donald Cameron, Clunes, and also near to Burnbank, upon another station. The fact was, however, concealed, from an apprehension that the stations would be ruined if it should be made public; but on the 10th of June Mr. Campbell communicated the discovery to the public. Messrs. Michell, Habberlin, Greening, Haton, Melville, and Furnival, discovered gold on Major Newman's station, Anderson's Creek, on the Yarra, in the month of June. On the 5th of July the fact was made public, and on the 16th they brought a considerable sample of the dust to Melbourne, which they exhibited to the Gold Discovery Committee.

A party consisting of Messrs. Edmonds, Kelly, Burns, and Pugh, discovered gold in the quartz reefs of the Pyrenees, near Donald Cameron's station, about the middle of June, and they made public the fact in Geelong on the 5th July. The next in order of time who announced that he had been successful was Dr. George H. Bruhn, who found gold near the Jim Crow ranges; and on the 30th June he forwarded specimens to the Melbourne committee. The most important discovery was, however, made by Mr. Thomas Hiscock on the 8th of August, and made public through the columns of the *Geelong Advertiser* on the 10th of that month. He came upon a deposit of auriferous soil in a gully near Bunninyong. The whole of this district was soon swarming with parties searching for gold; and, as Ballarat is on the same range, in a short time two parties, almost simultaneously, came on the adjoining range to Golden Point. This rich spot was worked for some time without any very marked success, but a family named Cavenagh, having entered a half-worked claim, and carried it below a layer of blue greasy pipeclay, amidst decayed slate, struck the rich pockets which were almost universally found there. The gold actually discovered, with the exception of Chapman's nugget, was trifling in amount previous to the important facts disclosed by the Messrs. Cavenagh, which placed Victoria at once at the very head of the gold-producing countries of the world.

Not only Ballaarat, but Forest Creek, where inexhaustible mines had almost simultaneously been discovered by some shepherds in the employment of Dr. Barker, began to produce many thousands of ounces weekly; and before the close of the year the colony had undergone a total revolution in all its relations. From a small oppressed out-district of New South Wales, it became the first colony in the Southern Hemisphere.

Mr. LaTrobe, the first Lieutenant-Governor of Victoria, was officially installed on the 16th July, 1851. The proceedings upon the occasion were rather imposing; a salute was fired, and the commission was read by the Colonial Secretary, in front of the Government office. The whole of the officers of the Government were present, and His Excellency held a *levée* immediately afterwards, which was attended by a number of colonists.

The former sub-treasurer, Captain Lonsdale, was now nominated Colonial Secretary, Mr. Ebdon was Auditor-General, Mr. Stawell was Attorney-General, and Mr. Barry was Solicitor-General.

CHAPTER XV.

THE effect of the Gold Discovery upon Colonial Society—The first Great Rush of the Colonists to Ballaarat—The Digging upon Golden Point—Condition of the People on the Gold-fields—Discovery of Forest Creek and Bendigo—Great excitement, and numerous arrivals from the other colonies—The discovery of the M'Ivor, Goulburn, and Ovens—Proclamation of 15th August, and threatened Disturbances on the Gold-fields—Proclamation withdrawn—Opening of the first Session of the Legislative Council—The Legislation necessary for the Gold-fields—The *Nelson* plundered of a large quantity of gold—Second Session of the Legislative Council opened—Convicts' Prevention Act passed, and Sir William Denison censured—Committee on the Gold-fields—Disorganized state of Society, and Crime awfully prevalent—The Escort attacked and plundered—Canvastown and Rag Fair—The vice of Intemperance common in Melbourne.

THE discovery of large pockets of gold at Ballaarat set the whole colony in motion, and within a week a total revolution seemed to have taken place in every branch of industry, and

amongst every class of society. Shops and stores were closed, stations and farms were deserted, and tradesmen would hardly wait to fulfil even the contracts they had on hand ; all were alike excited and anxious to get away for the gold-fields. The town of Geelong, being nearer to Ballaarat than Melbourne, was more immediately influenced by this mania ; and it was currently reported, so general was the migration from it, that only one of the male sex was left to keep the ladies company ; even the printer of the *Advertiser* removed a press to Ballaarat. The metropolitan city, although farther from the spot, was very little calmer ; at every turn of the streets parties were loading drays and making preparations to start for Ballaarat, and the usual salutation given and exchanged between the citizens was, " Well, when are you off ? " It was useless to expect any work to be performed, at even extravagant rates ; the out-fitters could scarcely obtain persons to make cradles and tin dishes to supply the digging parties with those indispensable articles. No city, perhaps, was ever plunged into such a ferment, and the citizens seemed all seized with the same insane thirst for gold. This may be accounted for in some degree by the uncertainty of the intelligence which was continuously reaching Melbourne ; the precious metal had undoubtedly been picked up in large quantities ; and the people, at first, naturally imagined that a solid mass had been found, and that there would be a scramble for the gold, and they were all anxious to be in time. It is true, that more correct intelligence was propagated through the columns of the newspapers ; but little credit was given to these accounts ; gold was there in abundance, and all were anxious to obtain a share of the public wealth and convert it to their own uses. The roads from Melbourne and Geelong to Ballaarat were crowded with travellers pressing forward with great anxiety to the same goal ; the whole extent of the road was covered with long lines of vehicles and groups of pedestrians of all sizes, who usually had a dray or horse cart to carry their supplies—and tent, if they were fortunate enough to have one ; and there were many solitary travellers with their blankets and scanty supplies strapped over their shoulders. There walked representatives of every class of society, from the highest to the lowest ; gentlemen, tradesmen, lawyers, doctors, clergymen, legis-

lators, magistrates, all mixed up together in the most grotesque confusion. These parties usually travelled about twenty miles a day, and encamped for the night by large fires; the whole of the banks of the creeks and water-holes were crowded with the tents and the miamias formed of branches, where the solitary travellers who had no other shelter quartered themselves. It was surprising how they became accustomed to this gipsy kind of life; they carried all their worldly property about with them; they made their fires in the bush, and boiled their tea in tin quart-pots; they made luxuriant meals, and lay down under their blankets, free and independent. These men practically exemplified that "Man wants but little here below" of artificial comforts or luxuries. The road was soon cut up by this enormous traffic, and, the creeks being generally unbridged, the travellers found it, in numerous cases, next to impossible to cross them; the ground was naturally soft, and the horses often sank so deep that their owners were unable to extricate them, and, in not a few instances, they were lost, and the party had to wait patiently until they could replace them by others. There were also numerous steep hills which it was necessary to ascend, and which was a work of considerable difficulty; the poor horses frequently knocked up and left the party to which they were attached in a very unenviable condition; it was not uncommon to see thirty or forty men pulling a dray up some of the steep greasy hills by means of ropes, or, unloading and carrying the various articles which composed the load to the top of the ascent on their backs.

There were but few houses of public entertainment, at this time, on the line of road, and those which were open were crowded, to an almost incredible extent, by persons demanding to be supplied with food and drink. In most cases there were no supplies of the former; so unprecedented had been the demand during the first week or two of this rush, that their larders had been cleared out. It would have been utterly impossible, moreover, for any small road-side house to have supplied the necessities of hundreds of half-famished travellers who were hourly arriving soliciting supplies. In most cases there were two meals in the day spread in the public rooms, one in the morning and the other in the evening, and at these all who could obtain sitting or standing room had an opportunity of satisfying the

cravings of nature. Upon those occasions the servants and masters, the magistrates and the pick-pockets, were, all alike, upon an equality. No picture of real life was so well calculated to impress the mind with astonishment as the Golden Point, at Ballaarat. The scenery around was most picturesque, the mansions of canvas spread far and near amongst the glades of the forest; the vast multitude of human beings congregated on the Point, and, working cradles upon the creek, which wound round the spot where the bustle appeared to be concentrated, formed, to the traveller eagerly on the watch to catch the first view of the diggings, a most exciting and novel scene. This vast concourse had been gathered together within a few days; it was like a great inland sea which was hourly increased by numerous accessions; the people were, however, anxious only about one object—gold. There was no other passion dominant at this time but avarice; it was, therefore, an unsettled and discontented community; for scarcely more than thirty per cent. of the diggers had succeeded in obtaining sufficient treasure to reimburse them for their trouble and outlay. There were no police, and there was but one Commissioner; and the diggers were most disorderly during the night, some, unfortunately, being addicted to intemperate courses. The danger of accidents from drunken brawls was very much increased from the habit that then prevailed of keeping loaded fire-arms always at hand, while spirits were easily procured from the numerous illicit traffickers whose tents thronged these diggings.

The canvas habitations were of all sizes and shapes, and were arranged in regular lines, so as to form streets and squares; the majority of those who had rushed to Ballaarat were bent upon getting gold, and were reckless of danger and privation. They usually sank a pit, and as soon as they discovered gold in the soil carried it in bags, or transported it in wheelbarrows, to their cradles, which were on the edge of the creek. It was most surprising to witness the speed with which the diggers ran from their pits to their cradles with the washing stuff, guiding their wheelbarrows along the narrow slips of ground which divided the various claims, neither looking to the right nor to the left, but rushing forward with lightning speed, where a false step might have been fatal to themselves and

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those working below in the pits. They never seemed to hesitate, nor did they stop to converse with one another, unless to wrangle about their claims, or the water frontages to the creek, where their cradles stood. There were no women at this time on Ballaarat, and even the men had not adopted mining as a business; they had merely hastened to obtain a share of the gold, and all hoped to make their fortunes in a few days.

In about a month after the general rush the wonderful riches of Mount Alexander attracted the greater portion of the crowd which had assembled on Ballaarat. The reports which daily reached Melbourne from Forest and Fryer's Creeks were so favorable, that those who had been able to resist the mania when Ballaarat first became so popular now prepared to take their chance, unable longer to oppose the almost universal epidemic which then received the name of the "Yellow fever." The numbers on the road to Mount Alexander far exceeded those who had been observed wending their way to Ballaarat; the whole route was literally crowded with passengers, many of whom were denizens of the adjoining colonies, who began to be attracted to Victoria by the fame of her inexhaustible mines. The term "Mount Alexander" was indiscriminately applied to Forest, Fryer's, Barker's and Campbell's Creeks, and even to Bendigo and the Loddon. The great "finds" of gold were, however, first discovered on the old Golden Point on Forest Creek, and on the hills and gullies adjoining. The first diggers on the creek found a seam of gold almost on the surface of the ground, and running across one of the small hills; but the precious metal was chiefly dug out of the small gullies which ran between the hills into the main creek. There were two methods of obtaining the gold at this period:—washing the soil to the depth of about half a foot on the surface, and sinking pits, in order to search for pockets of the precious metal, which were often found above or in the pipe-clay and slate. The Bendigo diggings were discovered a few weeks after, and attracted crowds of persons by their richness. Those who were on the gold-fields in the latter portion of 1851, and the first six months of 1852, could scarcely have failed to obtain treasure. In many of the richest gullies on Bendigo, such as Eagle Hawk, Long, Iron Bark, Peg Leg, &c., and in Golden and Adelaide gullies, on Forest Creek,

nearly every claim was auriferous. In the first-named, few parties who were fortunate enough to possess a claim on the best ground dug out less than from three to six hundred ounces. But even at this period many went away without obtaining any gold. Those persons either could not maintain themselves on the gold-fields, or were compelled by hunger to leave them, in order to obtain employment, or they could not reconcile themselves to the privations and hazards which diggers have to undergo. Many had a severe struggle before they obtained their first lucky claim; but the employment was not without its charms; for the excitement, and the hope of ultimate success, cheered on the most desponding. When the unsuccessful diggers at last found the object of their search, it was often painful to contrast their frantic delight with their former melancholy and dejected appearance; it is to be feared that few of them could bear prosperity with that equanimity of temper which is so necessary to the health and peace of mind of such as follow an exciting pursuit like gold-digging. The change, from profound despair to the extreme point of delight, was to be witnessed any day on Forest Creek or Bendigo. In no other pursuit, perhaps, is perseverance so necessary as in gold-hunting; and many poor fellows worked on, sinking pit after pit, in every likely spot, without success, while others, falling upon treasure almost immediately, and without any apparent effort, became suddenly rich. The ignorance of many was, no doubt, the cause of their failure, as they neither knew where to find the gold, nor how to know the auriferous soil when they struck upon it; and, in their anxiety to bottom their claims, they not seldom threw away the richest stuff, which would have paid them well to wash.

The diggings at Forest Creek and Bendigo were very different in character and appearance from those already described at Golden Point, Ballaarat. The tents were distributed along the course of the creeks, and occupied a wide extent of country; the fair sex had, moreover, in many cases, accompanied their husbands, and taken their children with them; indeed, those families who had arrived from the neighboring colonies were under the necessity of adopting this course, as it was impossible to obtain accommodation in the towns, which had now become overcrowded by the new arrivals.

The first summer happened to be remarkably warm ; a very great amount of dysentery prevailed, and many deaths occurred. The water was exceedingly impure, nor could it be otherwise when the whole of the creeks were occupied by cradles, and the water often became quite thick ; the pure element could, indeed, only be obtained fit for use in the morning, before the washing had commenced. There were no inns at or near these diggings, and only one in the district. This was named the *Porcupine*, and was situated at the foot of Mount Alexander, about half way between Bendigo and Forest Creek. This house was usually crowded with diggers and travellers. On the diggings, however, there was no lack of alcoholic drinks, as these districts were infested with sly grog-tents ; the teetotallers prevented hotels from being established for a long period ; but it is very doubtful if drunkenness was thereby decreased, as an enormous amount of intoxication prevailed even at this period. It was next to impossible for masters of ships to prevent their men from escaping, and betaking themselves to the diggings, where they formed one of the most numerous, important, and influential classes, and, being hard-working men, were, for the most part, remarkably successful. It is much to be regretted that, in many instances, they did not make so good a use of their money as could have been desired ; for, with the proverbial imprudence of seamen, they generally squandered their treasure in riot and extravagance. There were many exceptions ; and no doubt hundreds of sailors who made their fortunes on the Victorian diggings, are now comfortably settled in different parts of the world.

The McIvor gold-fields were discovered a few months after Bendigo ; they lie between that place and Kilmore ; and, for several months, were the most important diggings in the colony. They then fell off, and, from that time, have been next to deserted. The Goulburn and, afterwards, the Ovens were next discovered. The former never yielded much gold, and was quickly abandoned ; but the latter attracted many people, and has continued one of the most popular diggings in Victoria. Townships were opened upon the whole of the gold-fields, and churches, hotels, banks, and other public buildings, of a substantial character, were erected ; they have increased in population and influence, until Sandhurst, Ballaarat,

and Beechworth have become second only to the metropolis in importance.

On the 15th of August, 1851, his Excellency issued a notice in the *Government Gazette*, proclaiming the right of the Government to all gold in Crown lands, and declaring mining without license illegal. A fee of thirty shillings was imposed upon every male on the gold-fields. The miners generally paid this sum, but even in the early phase of digging—when gold was tolerably plentiful—it was felt to be most unequal in its application, and generally complained of. The *Government Gazette* of the 1st December contained a second proclamation, announcing the determination of the Executive to double this unpopular license fee. It further intimated that, all “persons upon the gold fields, such as tent-keepers, cooks, and others,” would be required to take out a license on the same terms as those actually employed in digging. This rash step aroused a torrent of indignant remonstrance over the whole colony; and the Government brought on a crisis, the diggers positively refusing to pay the increased fee, which, indeed, in the majority of cases, they were utterly unable to get together, as hundreds were compelled to abandon the diggings, from inability to maintain themselves there. The Executive recalled the objectionable proclamation, and the excitement was allayed; but this infatuated conduct of Mr. LaTrobe made the diggers aware of the weakness of the Government, and the prestige which alone could maintain order in such a society was utterly lost.

The elections for the first Legislative Council took place in the month of September, and on the 11th of November the House met for the first time, and elected Dr. Palmer as its speaker. On the 13th his Excellency opened the session in due form, and delivered his maiden speech; he referred to the great alteration which the discovery of gold would effect, and the possible difficulties that might arise in consequence. He informed the Council that bills on education, and the judicial arrangements of the colony, would be introduced by the Executive Government; and congratulated the House on the completed independence of the colony, and the representative institutions which it had received. This was little else than an insult to the good sense of the people, as he had done

his best to have a Nominee Legislature forced upon the colony. On the 18th of the same month a message was sent down by his Excellency, with the Supplementary Estimate for 1851, amounting to £19,014 18s. 6d., and announcing that the estimated revenue for 1852 was £175,350; while the provision for services was £173,063 18s. 6d. The session was short; not only the Government officials, but the popular members, were rather inexperienced in their duties, and they followed pretty nearly the example of the Sydney House. The first question discussed was, the propriety of offering up prayers on each occasion of meeting, which was supported by most of the adherents of the Church of England, but generally opposed by the members belonging to the other sects. The motion was lost by one vote; and another subsequent effort met a similar fate. This is a question upon which much difference of opinion has always existed in the colony; and, after responsible Government had been introduced, the discussion was again renewed. The votes in favor of opening with prayer were fewer in the House of Assembly than those against such a course; but in the Council the votes were about equal; and a proposition, made by the author of this work, to open the proceedings by reading the Lord's Prayer was carried. This, however, is anticipating events. The most important matters which came on for discussion in this session were those arising out of the increased expenditure consequent on the rapid development of the gold diggings. On the 26th November, on the motion for going into committee on the Estimates being put, an amendment—"That it be an instruction to the Committee, that the public expenditure originating in the discovery of gold ought to be borne by the territorial revenue, and that no part of such expense should be taken from the general revenue"—was carried. On the 2nd December a message was received from his Excellency, stating that the Estimates were framed at a time when it was impossible to calculate the influence of existing circumstances on the price of labor; and that there should be such an advance of pay to subordinate officers as to place the Executive Government in a position to secure the public service from embarrassment. A long discussion took place on this message, as it was regarded as an indirect attempt to nullify the former resolution; this objection was taken by the Speaker, and

he declined to put the question in consequence. His Excellency was compelled to sanction the additional payments from the territorial revenue on his own responsibility, and to write to the Imperial authorities in Downing street to confirm the step. An important measure, to restrain unauthorised mining on Crown lands, was passed, and the Council was prorogued on the 6th January, 1852.

The Gold Commission was established towards the close of 1851; it possessed a chief commissioner in Melbourne, and a staff of commissioners and assistant commissioners upon the diggings. They resided in the camps on the different gold-fields, and were responsible for the police, the collection and transmission of the revenue, and the gold deposited for safe custody; they weighed and gave receipts for all the gold about to go by escort to Melbourne, packed it in saddlebags for the escort horses, and issued the licenses to the diggers; they had to hear and determine all disputed claims between the miners; they usually discharged the functions of police magistrates; in a word, they were arbitrary ministers of the Executive, who were quite irresponsible to Parliament, and were entrusted with uncontrolled power on the diggings. The Government had, at this period, complete control of the public lands, and the territorial revenue, so that the Parliament could only appropriate the portion of the ordinary revenue beyond the reserved schedules. It now became apparent that its functions were so limited that it was next to powerless, and the necessity of a more liberal Constitution was evident. The Government deemed the gold diggings a part of the Crown land department, of which it had the sole control, and, much to the indignation of the Legislature, took the entire management of them. It was in consequence of this assumption of irresponsible power that the Legislature declined to vote any money for the gold-fields, contending, very fairly, that, belonging to the territorial department, which was deriving a revenue from the diggings, the whole of the expenses ought to be borne from the gold fund. The Executive did not deny that all the actual expenses of managing the gold-fields should be defrayed in the manner the Legislature required, but it did not think the advance in the salaries of officers, and other expenses, caused by their sudden discovery, should be taken out of that fund. The law officers showed, at great length,

the legal bearings of the case ; and argued that the additional expenditure would be far more than counter-balanced by the concurrent expansion of trade, and the increase in customs duties, over which the popular representatives could exercise full power. The Council positively refused to vote a farthing beyond the previous rates ; and the result justified this resolution. The following bills were passed into law during the first session of the Council :—" Better Administration of Justice," " Postage," " Unauthorised Mining," " Gaming Prevention," " Education Commission," " Interpretation of Acts," " Conveyance of Real Property," " Gunpowder Exportation," " Melbourne and Geelong Police Rate Suspension," " Preservation of Ports and Harbors," " Distress for Rent," " Fees of Office, Abolition," " Savings' Bank," " Public-house Amendment," " Quarter Sessions," and " The Appropriation of Public Revenue."

On the 3rd of April, 1852, a great public meeting was held in the Mechanics' Institute, to protest against the inundation of the Australian Colonies with British felony, through the medium of Van Diemen's Land. The speakers were Messrs. Nicholson, Dight, Best, Miller, Fawcner, Kerr, Watson, Westgarth, Blair, Johnston, Henty, Stevenson, and Captain Harrison. The resolutions carried emphatically expressed the determination of the colonists to resist, by every means in their power, the importation of British criminals into the colony in any form, or from any quarter. On the previous day the ship *Nelson* was boarded by a daring gang of robbers, and plundered of gold-dust to the value of £24,000. The vessel had just arrived in Hobson's Bay, from Geelong, with the treasure on board, and was lying nearly unprotected, there being only three sailors and three passengers on board. No resistance was attempted ; and the boxes with the gold were handed over the side of the ship into the boat, the villains remarking that " it was the best diggings they had met with." The perpetrators of this daring act very nearly eluded the vigilance of the police ; they had landed the booty on the beach, and a trader in Melbourne went out with money, in his gig, and bought the gold at 80s. an ounce, and had it secured early on the morning of the occurrence. He went to Britain soon after this, the prisoners confessing to the attorney who defended them the manner in which they got rid of the spoil ; no

criminal prosecution was ever instituted, as the secret was divulged in confidence, on the principle of "telling the lawyer the whole truth : letting him tell the lies afterwards." Four men, named John Jones, James Morgan, James Duncan, and John Roberts, were indicted for the offence, and found guilty, after a lengthened trial. We have reason to believe that one of the convicted persons was not guilty of the crime for which he was sentenced; there can be no doubt, however, that the other three were really guilty. The person wrongfully convicted very much resembled the guilty party for which he had been mistaken; and we believe, if the two were together, it would be next to impossible to distinguish them. This we mention upon the authority of the gentlemen who defended the prisoners, and who had no object in stating what was untrue.

The second session of the Legislative Council was opened on the 22nd June, 1852, by his Excellency, and extended over nearly eight months. At the commencement abortive efforts were made to have some settlement of the accounts between Victoria and New South Wales, in order to claim the balance due to the former, and to have the boundary line between the two colonies placed upon a more satisfactory footing. The Executive was called upon to sell land, both town and suburban, for the use of the people near the cities, and large quantities of agricultural land in the neighborhood of the gold-fields. On the 7th of September a most important despatch was laid upon the table of the Council, from Sir John Pakington, placing the gold-revenue and the land-fund at the disposal of the Legislature. On the 17th of the same month the House passed a resolution conveying the thanks of the Council to him for the kind and considerate tone of his despatch, and for the concessions he had made to the colony. In the course of this session a letter from Mr. King, the delegate of the Anti-Transportation League, in England, was published, announcing that Earl Grey was still determined to continue transportation to Van Diemen's Land, notwithstanding the gold discovery; the Council was petitioned to introduce a bill for the prevention of convict immigration. The measure was brought in, and, notwithstanding great opposition from some of the officers of the Government, it passed the House, and was assented to by the Governor. On the 4th February, 1853, the

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House carried a cordial vote of thanks to his Excellency for his prompt assent to this bill; it also severely censured the conduct of the Lieutenant-Governor of Van Diemen's Land, and expressed its strong feeling against transportation to the Australian colonies, and requested the Governor to transmit the resolutions on the subject to her Majesty. The great influx of Chinese was first taken notice of during the course of this session, and the social evils which would flow from it appeared to have been feared even at this period;—the Government promised to direct its attention to the subject.

The act to facilitate the apprehension, and prevent the introduction into the colony, of offenders illegally at large, imposed a penalty of £100, or imprisonment for six months, on any master mariner conveying into Victoria any run-away convict, or any one under conditional-pardon, ticket-of-leave, or indulgence of any kind other than a free pardon. This act was very stringent, and informations under it were laid in the Water Police Office, Williamstown, against masters of passenger vessels trading to Van Diemen's Land, and in not a few cases convictions were obtained. The measure was denounced and condemned as unconstitutional by the press of New South Wales and Van Diemen's Land; but, when the peculiar circumstances of the colony at this period are taken into consideration, any impartial person will admit that the enormity of the provocation demanded such an enactment, in order that an intolerable nuisance might be in some degree abated. On the occasion of opening the first criminal sessions at Castle-maine, in the course of his opening address to the jury, Mr. Justice Barry entered into various details respecting the number and nature of the crimes which had been previously brought before the courts of the colony; he stated that these crimes had been committed chiefly by run-away convicts from Van Diemen's Land, and that in one quarter there were no less than sixty-six persons of this class tried and convicted in Victoria. And there appeared, at this period, every probability of the evil increasing to an almost unlimited extent; for a despatch from Sir William Denison, Governor of Van Diemen's Land, to Earl Grey had been published, in which that perverse official actually attempted to argue that so far from the gold

discovery being a reason why convicts should not be sent to Australia, it was exactly the reverse. The free laborers, he argued, would all desert to the diggings, and agricultural and pastoral pursuits be left dependant on convict labor; he observed, "In point of fact, for some years to come, at all events, we must rely upon their labors to supply us with food; and, although the temptations to the convicts to abscond would, *to a certain extent*, be greater in such a case than they are present, yet I do not imagine that I shall find any difficulty in maintaining such an effective police as will check this tendency, or at all events prevent the evil effects which might arise from it." Of course, had Sir William Denison confined his observations and recommendations to Tasmania, he might have been excused on the plea of public duty; but he argued that convicts were necessary for the whole of the Australian colonies; and he urged upon Earl Grey the propriety of sending out, annually, in addition to the number of convicts usually forwarded, two thousand probationers, and the like number of free emigrants. No wonder that the people of Victoria should have entered their protest against this scheme; that they should have condemned the proposal to inundate their fair colony with hordes of polluted wretches whose souls were steeped in crime. Posterity, therefore, will admit that the convicts' prevention act was imperatively demanded to avert the threatened ruin of the colony.

On the 8th February the Legislative Council was prorogued by his Excellency, who made a very lengthened speech; he congratulated the members upon the success of the new tariff, which was likely to increase the customs' revenue. He expressed his conviction that the establishment of county courts and general sessions would materially assist those entrusted with the administration of justice. In alluding to the act to facilitate the apprehension of offenders illegally at large, he said he was satisfied that such a measure was imperatively necessary for self-protection.* He alluded

* Although Mr. LaTrobe expressed himself favorable to this measure, he was accused of wishing to allow it to fall into disuetude, and of wishing to regard it simply as a demonstration against the convict system. The act was disallowed by Her Majesty—the only instance, so far as we are aware, that an act which has been assented to by any Governor on behalf of the Queen has been disallowed by the Imperial authorities. The bill was, however, re-enacted in the next session of the Legislative Council of Victoria.

briefly to the Harbor Regulation and Pilotage act, and the measure for general registration, and expressed his conviction that the enactment relating to the organization of the constabulary force would be the means of securing peace and maintaining order in the cities and populous districts. He said that he had given a ready assent in her Majesty's name to the bill proposing additional and liberal provision for public worship; and, also, to the bill for altering the electoral act of 1851, and increasing the number of members of the Legislative Council. He expressed his regret that no general postage act had been introduced; and said that a serious inconvenience and loss had resulted to masters and owners of vessels by the desertion of seamen; some measure to prevent the continuance of this system was necessary. There were forty-five bills passed during the session; the most important of these have been noticed in the above review of his Excellency's address.

The Legislature had bestowed considerable attention on many subjects; but the most important, perhaps, of all had been next to neglected. It had blamed the Government freely enough when the sole responsibility of the management of the gold-fields rested with it; but after the despatch from Sir John Pakington had been received, and the importance of the concession acknowledged, which virtually, on behalf of the Queen, abandoned the control of the gold-fields, and invested the Legislature of the colony with the privileges thus voluntarily conceded, the members of the Council made no effort to reform the abuses which they had so loudly condemned. The only attempt in this direction was made by Mr. Campbell, member for the Loddon, who obtained a committee on the state of the gold-fields, which commenced its labors towards the close of a very prolonged session, and only had ten sittings; the persons who gave evidence before it were, the Colonial Treasurer, Messrs. S. J. Cooke, J. Harrison, G. Gilbert, and W. H. Wright, Chief Commissioner of Gold-fields. The report was unworthy of the chairman, whose industry and intelligence were acknowledged; it was unconnected, inconclusive, and worthless for any practical use; it contained, however, a few interesting facts, which we shall quote. It said, in reference to the Government officials, "The present staff of Gold Commissioners consists of eleven at Mount Alexander; seven at Bendigo; one at

Korong; one at Daisy Hill; five at Ballaarat; and two at the Ovens; making, in the aggregate, twenty-seven; which staff is considered insufficient for the collection of license fees, and a due co-operation with the police." And it quoted the Chief Commissioner's estimate of the number of persons digging at about "15,000 at Mount Alexander; 15,000 at Bendigo; 1,500 at Korong; 1,500 at Daisy Hill; 10,000 at Ballaarat; and 3,000 at the Ovens; making 46,000 in the aggregate; and that about one-fifth evade payment of the license fee, which, under a more efficient system of sub-division, would not be so easily evaded; whereby a greater revenue would be collected, and better police protection afforded to the diggers." The report referred to the necessity of preserving water-holes, destroying butchers' offal, and compelling the diggers to discharge their washing stuff outwards from the water-holes, so that the muddy water might filter back through a stratum of soil or gravel. In treating of the license fee, the report exhibited the greatest want of thought and acquaintance with the subject; recommended its continuance, and stated "it was well adapted both for the purpose of revenue and police supervision." It concluded by recommending that an act for the regulation of the gold-fields be passed in the course of the session. No action, however, was taken on the report; for the only measure introduced was the Export Duty on Gold Bill, which emanated from the Government, and was rejected by the Council; indeed, the popular representatives separated leaving the gold-fields in the same position as they were when Sir John Pakington's despatch was received.

The population had doubled itself in 1852; those who arrived in that year (77,661) being, as near as possible, equal to the whole population in 1851. The number of persons attracted to Victoria from the neighboring penal colonies increased crimes against life and property, and the highways and public streets were, unsafe at noon-day. The Police force was in a state of disorganization; and the members of it, which really could be termed effective, were under different heads. The new act, which (in imitation of the Metropolitan Police act) placed the whole body under one general chief, tended, very much, to restore order and security. W. H. F. Mitchell, Esq., was appointed Commissioner;

the pay was raised, and respectable men induced to enlist into the constabulary, the old adage of, "set a thief to catch a thief," having been found to work but very indifferently. The Government, in their anxiety to rectify the error of giving insufficient pay, fell into the opposite extreme, and obtained for the higher offices too aristocratical persons; the Council, that had previously found fault with the Executive for its parsimony, now complained of its extravagance, and cut down the estimate submitted for the support of a police force. The act to apprehend offenders illegally at large had a most important and beneficial effect. Its provisions applied to escaped convicts, and even to those who had obtained conditional pardons, not available in England; and numbers of felons found at large were apprehended and punished. Amongst the number was the notorious bushranger, Dalton, who was, fortunately, arrested by the Melbourne Detective Police in so extraordinary a manner that the facts appear stranger than fiction;—Dalton, with his associate, Kelly, had crossed Bass' Straits in an open boat, and succeeded in entering Melbourne unperceived. He went into a restaurant, in Bourke street, kept by Messrs. Roterberg and Co., at midnight, in company with a boatman, and, in a most unostentatious manner, intimated to the shopman that he intended leaving for England on the following morning, by the *Northumberland*, and would be obliged if he would change some Van Diemen's Land bank notes. The shopman declined, and the two men turned to leave the place, but were accosted by a gentleman present, who said he thought he could accommodate them; and, taking some notes from his pocket, and looking at them, remarked that he had not enough of money, but he had a friend near who would lend him what he wanted. The men accompanied their new acquaintance, who was Mr. Bryce, who had formerly belonged to the police; he led them up Swanston street, and right into the station-house, where the boatman disappeared. The other man also showed symptoms of wishing to retreat; but two smart detectives—Murray and Williams—happening to come up at this critical moment, were informed by Mr. Bryce of the suspicions which he entertained, that the fellow had come by the money which he wished to change in a dishonest manner; there being no specific charge, however, he was just on the eve of being

allowed to depart, when Murray recognised in the man before him the description of Dalton, and rushed upon him. Dalton resisted, and strove hard to free his pistols. The whole of the three closed with him, and secured him. He swore and stamped in the most frantic manner at having been so easily entrapped; he regretted that he had not known Murray's intentions a few seconds before, that he might have cleared the station-house;—a threat he would, most probably, have carried into effect, as he had three loaded pistols, ready cocked, about his person. He shot a constable, named Thomas Buckmaster, in Van Diemen's Land, in a similar attempt to arrest him, and was reckless of human life. The boatman was, no doubt, his confederate, Andrew Kelly; but he eluded the vigilance of the police. In addition to the *eclat* of this capture, the officers became entitled to £100, which the Governor of Van Diemen's Land had offered for the apprehension of Dalton; he was brought before the Police Bench of Melbourne, and forwarded to that colony to receive his deserts at the hands of the authorities there. On the 20th July of this eventful year (1853) the private escort from the McIvor diggings to Melbourne was attacked by a gang, who were planted in an ambuscade near the road, and who shot down the troopers before they were even aware of the danger. Notwithstanding very large rewards offered, both by the Government and the company, the ruffians, for a long time eluded the vigilance of the police. They were discovered, at length, in consequence of one of the gang having been arrested on board the *Madagascar*, in the Bay, on the eve of her departure; but, had he gone in her, he would not have escaped the due retribution he merited, as the vessel never reached home, and was supposed to have perished, either in the ice, or from fire. The charge against him was of a trivial character; but he turned Queen's evidence in the escort robbery case. He then committed suicide; but his brother, who belonged to the same gang, had also been apprehended, and, following his example, divulged the whole particulars of the plot, and, upon his evidence, three of the ruffians—George Melville, George Wilson, and William Atkins—were convicted and executed. Almost about the same period, two felons, named Patrick O'Connor and Henry Bradley, escaped in a whale-boat from Van Diemen's Land, and, crossing Bass' Straits, landed

in Western Port. The first act of bushranging these villains perpetrated in Victoria was, to walk up to a ploughman of Mr. King, near Brighton, and order him to deliver up his team. The poor fellow declined, upon which, without another word, one of them shot him dead on the spot, and they rode off with the horses. They committed many robberies in Victoria, and excited the utmost terror amongst the settlers. They were at last discovered by the police at the farm of a person named Cain, near Kilmore, and a smart skirmish took place between them and three mounted troopers, in which one of the latter was dangerously and mortally wounded. They were overpowered, and brought to Melbourne, where they were tried before Mr. Justice Williams, and, of course, convicted, and sentenced to death. They behaved throughout the solemn scene with the utmost levity; Bradley remarked to the judge, at the conclusion of his admonitory remarks, in passing sentence of death—"Thank you, my lord; I'm very glad for your sentence—very glad, indeed."

Land had begun to increase considerably in value about the end of 1852; but it advanced at railroad speed, and actually reached fabulous prices in the beginning of 1853. Never before, in the periods of the most feverish speculation, did sections of building land in the neighborhood of Melbourne bring such enormous sums. Land, in parts of the city which could hardly ever become good business stands, but must always remain mere suburban property, sold at from two to three thousand pounds an acre. It was actually higher than sections in the neighborhood of the first-class cities of Europe, where every element of stability existed, and all the appliances of civilization were to be found. Land manias have been always hazardous; they are generally succeeded by a crisis; in this instance the Government was the occasion of the fictitious rise: it positively refused to bring land into the market to meet the great demand consequent upon the influx of people, and the vast accumulation of money. Private owners cut up their land, and sold it to speculators at extravagant profits; it passed from hand to hand at enormous rates; all who heard of the fortunes made rushed to buy it at any price. The Government, then, at the eleventh hour, brought unlimited quantities into the market, and the prices immediately fell. The reaction was severe; and the

mercantile community have good cause to recollect the panic of 1844, which utterly ruined many families, and paralysed the commercial interests so severely that they did not rally for several years.

The great influx of people, attracted from Europe by the gold discovery, set in about September, 1852. The accommodation of Melbourne was now tried to its utmost extent; every house was filled to overflowing, and many respectable families were under the necessity of living in tents, or sleeping in the open air. A large city, named "Canvas Town," sprang into existence on the south side of the Yarra; it commenced on the slope of the hill, just beyond the approach to Prince's bridge, and extended nearly to St. Kilda. It was laid off in streets and lanes; but the poor immigrants were not allowed to occupy even the small space necessary to stretch their limbs upon without paying for it, as the Government of the day charged five shillings per week for this accommodation; an unnecessary infliction, we admit, upon the really distressed, but which tended to operate beneficially in preventing speculators from erecting tents, and leasing them out, and deriving a profit from the necessities of the immigrants. This might, however, have been prevented in some other manner; and the heavy charge for the poor privilege of occupying a few feet of ground with canvas was prejudicial to the British name in the eyes of foreigners, and almost unworthy of a British Government. Could all the secrets of Canvas Town have been collected and published, they would have formed quite as romantic and extraordinary a volume as the literature of the world ever produced. Persons of all ranks, of all countries, and of all creeds, were there huddled together in grotesque confusion; the main streets were crowded with boarding-houses and stores—all of canvas; and it was said to afford a harbor for the most vicious criminals, with which the colony abounded. The Corporation—not behind in cupidity—leased out the two market reserves for similar purposes; and there were, therefore, two small "Canvas Towns" in the centre of the city. The erections on the market reserves fronted good streets, and had a great value for business purposes. It was positively discreditable to the Corporation thus to endanger the health of the citizens, and also the safety of the property around these reserves; the revenue which they wrung out of the wants of

the poor distressed immigrants was, apparently, the only object they had in thus deforming the city. The necessities of those extraordinary times also brought into existence a mart for a peculiar kind of traffic; it was held daily on the line of Flinders street, opposite the Custom-house, and was designated "Rag Fair." Here immigrants who had not means to start for the diggings, or who had a superabundance of articles of wearing apparel, congregated to expose their property for sale; they spread their wares on the ground, or held them in their hands, and offered them to the passengers at prices so low as to entice them to become purchasers; the alarming sacrifices here made, day after day, and all day long, excited astonishment. Every article, from a needle to an anchor, could be purchased on this spot. Some went with a large amount of valuable property which they were under the necessity of disposing of; others had, perhaps, only one or two superfluities that they were positively compelled to turn into money to buy bread. There were every variety of characters engaged in this singular traffic: the handsome and distinguished-looking scion of good family, anxious to sell the best portions of his valuable outfit, bought at Silver's, and which his fond mother or sister had taken so much pains about; the care-worn, broken-down gentleman or tradesman, or his wife, endeavoring to dispose of a silver tea-pot, or gold snuff-box, or some other carefully-hoarded-up family relic, which only actual want would have compelled any of them to part with; the stalwarth farmer's son from Cumberland, or some other inland county, offering a gun or a watch which he found useless in a country like Australia in the golden era; some with a book, an umbrella, or a pair of boots; in a word, there were every class of sellers, with every kind of article to dispose of. The traffic in Rag Fair became, at last, so considerable as to interfere with the interests of the legitimate shopkeepers, and a memorial on the subject having been forwarded to the City Council, that body thought it necessary to suppress it; and an order went forth to take into custody all persons guilty of offering goods for sale on the forbidden ground where Rag Fair was held. The pretext was, that it had become appropriated to the sale of stolen goods; and that persons made it a regular place of traffic, getting themselves up for the occasion as

poor immigrants, and catching up any unwary purchaser who might visit the scene.

The contrast was very striking between the immigrant thus disposing of a few necessities or superfluities, in order to purchase a small outfit for the diggings, and the half-fledged immigrant who had made a successful trip to Bendigo or Forest Creek, and had re-visited Melbourne to dissipate a portion of the treasure he had secured. The hotels presented a singular and, to a mind of any refinement, a disgusting scene. The bars, parlors, and public rooms were crowded with people in all the various stages of drunkenness; some were drowsy, some foolish, some violent, some excited, some idiotic, some positively mad. Such assemblages of the worshippers at the shrine of Bacchus could hardly have been found jumbled together in any other part of the world; and the freaks of some lucky diggers were so erratic and surprising that the stranger to such scenes would hardly believe that they could have occurred. The great and unaccountable propensity of such as had been very successful in obtaining treasure to fly to dissipation, and to squander their wealth in extravagant profusion, astonished men of reflection; cases have been known where these men have taken up rolls of bank-notes, in their drunken fury, and eaten or destroyed them. It was a common occurrence for such persons to entertain every one they could prevail upon to enter their hotels with the best these houses afforded; and hundreds, nay, thousands, of pounds were spent by many foolish and improvident gold-diggers in the course of a week's saturnalia. It too often occurred that they had good cause to repent their thoughtless behavior, as, generally speaking, they were not again fortunate on the gold-fields. A good claim was seldom met with, and it was a very fortunate individual who happened to fall upon rich spots twice in his digging experience.

CHAPTER XVI.

EFFECTS of the Gold upon Society and Commerce—Great advance in the Money Value of Property and Merchandise—The classes which derived the greatest amount of advantage from the gold discovery—Increase of general Business—The high prices of Merchandise followed by a Glut, and low prices—Change in the Social Organization of the Diggers—Misunderstanding between the Executive Government and the People upon the Gold-fields—Threatened Outbreak on Forest Creek and Bendigo—Military sent for to quell these Disturbances—More Soldiers necessary—The 99th arrives from Hobart Town—The Government abandons the License-fee; and Tranquillity once more restored—Low price of Gold; and Agitation for a Mint.

THE period has now been reached when the discovery of gold in the colony was recognised as an established fact. The inhabitants of the cities and country districts had forsaken their quiet homes, and flocked to the diggings; the country villages, the larger towns, and even Melbourne, were for a while deserted; business was suspended, houses were empty, property unmarketable. In the first few days of 1852 any tenement in Melbourne might have been leased at next to a nominal rent; the great prizes had attracted the attention of all classes, rich and poor, and persons in trade left their shops and workshops because, in the general confusion, trade was nearly paralysed. The amount of wealth which was obtained on Balhaarat and Mount Alexander, and which rumor much exaggerated, induced many persons from the neighboring colonies to inter-emigrate, and the streets of Melbourne soon again exhibited the appearance of activity. Rents advanced as the demand for dwellings re-commenced, until, in February, every house in Melbourne was let at a very much advanced rate. Trade now rallied, and, as the crowd of diggers increased, the shops and stores began to exhibit a bustle which was wonderful to behold. Those who brought down gold squandered the proceeds in the shops and hotels, without sense or discrimination. The citizens who had gone to the gold diggings, finding that they could obtain fortunes more speedily in their usual avocations than in searching for the precious metal, returned, and abandoned the hard work and the chance of

lucky prizes to the working-men; the merchant returned to his counting-house, the grocer to his counter, and the tradesman to his workshop.

The extent and vast richness of the gold-fields became gradually developed; the stream of population flowed in upon the colony with increasing volume; the necessities and luxuries of life were much in demand, and, as money was abundant, the value of every article advanced to a most exorbitant price. Indeed, so high were the profits in trade, that no rent was regarded as too extravagant for business premises in first-rate positions in Melbourne; a long lease, at an ordinary rent, was a considerable fortune, and the good-will of an hotel often brought as much as five thousand pounds, and this, too, in cases where the lease had only two or three years to run. As wealth accumulated the exchangeable value of real property increased with unexampled rapidity; and the colonists began to make their calculations in thousands instead of hundreds. The price of all kinds of mechanical labor advanced in about the same ratio; bricks, which were wont to bring about fifteen to twenty shillings, could not be purchased at this time below from ten to fifteen pounds, a thousand; and other building materials were high in proportion. A building which, previously, might have been completed for three hundred pounds, could scarcely be finished for as many thousands. The limits of Melbourne were too small to confine the people, who began to scatter themselves over the adjoining country. Land in eligible situations was greedily purchased. The local authorities exhibited a supineness and apathy upon the occasion which cannot be too strongly censured. Instead of meeting the mania for land, in the first instance, with the proper antidote—viz., by putting up a sufficient quantity for public sale—the Government, by their injudicious conduct, which we have already condemned, brought disaster upon the trading portion of the community. The plethora of gold, and the great increase of population, combined to give this enormous value to land and real property. The squatters did not, at first, feel any of the good effects of the change, for they had very great difficulty in procuring servants, and they were unable to forward the wool, on which they depended, to market. After the first year, however, the demand for

meat became so great that cattle and sheep began to advance with astonishing rapidity ; and meat that had brought no more than 1½d. now advanced to 7d. and 8d. per lb.

The sheep and cattle farmers were inclined, in the first instance, to believe that they would be ruined by the gold ; but, perhaps, no class of the community ultimately reaped so great benefit from that event. Indeed, from 1852 to 1857, stations and stock were the most lucrative investments in the colony. The agriculturists, on the contrary, were far from being equally benefitted ; the produce of their farms could easily be imported from other countries, and the difficulty of procuring a regular supply of labor compelled the owners of many hundreds of acres to allow them to lie untilled. It is true that, in the first year or two after the discovery of gold, the supply of flour and other articles was far beneath the demand, and such as raised grain made small fortunes ; but, for two or three years afterwards, the colony was literally inundated with provisions from every quarter of the globe, and the prices of produce fell to a ruinously low rate : many farmers were unable to live, and were under the necessity of abandoning the land which had it had taken them much capital to reclaim. The case was very different with the Australian squatters ; the market for fresh meat was secure from foreign competition, and they were thus in a position to exact such rates as they thought fit to impose.

The position of the trade of the colony at this period may not be unworthy of a passing notice. The branches of the two great Anglo-Australian banks nearly monopolised the exchanges, and did the greater portion of the business, as the merchants generally traded upon the resources of these establishments. The branch of the Bank of New South Wales had just been opened, and was transacting a moderate share of business. The resources of the banks and merchants were well able to grapple with the exports of the colony previous to the gold discovery, which only amounted to £700,000 per annum ; but when, unexpectedly, and without any warning, an amount of trade, something like ten times as great, was thrown upon them, it was not very surprising that all the resources at the command of those classes were taxed to the very utmost. The gold escort was established in October, 1851, and the suddenness with

which the vast wealth of the diggings was poured into Melbourne will be gathered from the fact that, in 1852, there was produced in Victoria 173 tons, 19 cwt., 1 quarter, 12 lbs., 3 oz., valued at 70s. an ounce, worth £14,163,364. The majority of those who dug out large quantities of gold were most anxious to dispose of their treasure; some persons, there is little doubt, forwarded it to England at their own risk; but they were few in comparison with those who desired to sell on the spot. The means to purchase were not at hand, and yet the banks were called upon to buy; and so extraordinary a position were they forced into, that one great bank could not have paid its depositors, by at least two millions, had there been a run upon it about this time; true, the establishment would ultimately have been right enough, as, in time, this foreign balance would have become reduced, and the local creditors would have been paid. In the early part of 1851 the value of the gold had not been ascertained, and the merchants were very cautious in purchasing until a correct assay could be obtained from England. In January, 1851, gold was disposed of at Bendigo as low as fifty shillings an ounce; and in Melbourne it ranged from fifty-six to sixty-four shillings. About June of that year it was ascertained that the real value of Ballaarat gold was from eighty-two to eighty-four shillings an ounce; Mount Alexander gold was not worth so much, by about four shillings. From that period gold-dust has had nearly a fixed value in the colony. In the first instance the banks refused to purchase, but had no objection to advance at the rate of fifty shillings an ounce; and all those who bought at the rates which prevailed in 1851, and shipped to England by means of the money of the banks, realised large fortunes. These establishments soon perceived the golden opportunity which they were allowing to slip through their fingers; they entered the market, and, since that time, have nearly monopolised the gold trade. The stores of the merchants were quickly emptied, and even the supplies which could be obtained from the neighboring colonies were found inadequate to meet the demand of the large population now on the gold-fields; indeed, many began to fear that provisions would become scarce, and that a famine would ensue. Those who had stocks on hand, or who operated quickly in the market as importers, realised for-

tunes; but, about 1852, supplies poured into the colony from all quarters of the world, and the merchandise increased so much in amount that, in July, 1853, a glut appeared inevitable. Persons in every part of the United Kingdom who could not come to Australia to get gold, engaged in a speculation of some kind or other to the golden city of Melbourne; and, as a vast quantity of the goods were unfit for the market, they threw agents and merchants into great perplexity and confusion. Many thousands of pounds worth of merchandise were allowed to remain untouched on the wharf at Melbourne, and must have become a total loss to the owners; the roads to the diggings and the inland towns were completely cut up by the severe winter; indeed, there appeared no outlet for any kind of merchandise. The storage accommodation of Melbourne was very limited, and the rates charged most exorbitant; the carriage was paid at the rate of £160 a ton to the diggings, or 1s. 6d. upon every pound of flour or other article of consumption; and, out of 60,000 persons, said to be on Bendigo in the winter of 1852, at least a third were not able to buy food sufficient to maintain themselves. The lesson was not, however, lost upon the population on the gold-fields; and the succeeding winter found the people much better prepared: not only the store-keepers, but even the diggers, had laid in large stocks of provisions and general stores.

A marked alteration was, moreover, visible about the end of 1852 in the social organization of the great mass of the diggers; the colonists had, as we have already mentioned, rushed to the gold-fields expecting to pick up treasure in masses, and return at once with sufficient fortunes. Many set forth barely supplied with the necessaries of life, intending merely to be out campaigning for a few weeks. They seemed to think that it would be a hard case if the old colonists should not obtain a share of the treasure, and with that view they started. But when it became apparent that digging was a pursuit which would only remunerate those who followed it with steady energy, they at once abandoned it and returned. The majority of the original colonists had some other mode of living, or were enriched by the rise of property, and therefore independent of so very laborious a pursuit. The gold-fields were abandoned to those who had no other occupation, and who followed mining or gold-

hunting as a means of earning a livelihood. The diggers formed a society independent of the other classes, and in 1853 they commenced agitating for the repeal of the license-fee, and, the Executive declining to accede to their prayer at the time, the foundation of that unfortunate spirit of discontent was laid, the results of which were so much to be deplored in the succeeding year.

The first serious misunderstanding which took place between the diggers and the Executive Government has been already noticed, but it demands from the historian the strictest examination, more particularly as it all but led to a serious outbreak among the diggers. The system of management adopted by the LaTrobe Government was to delegate arbitrary power into the hands of the gold Commissioners, who were selected merely because they were protégés of the Government, destitute, in the majority of cases, of ability, and, what was worse, ignorant of the country and of the class over whom they were placed. The arbitrary and illegal acts of those petty officials aroused hostile feelings in the breasts of the diggers, who generally were quiet and well-affected to the authorities. It was no uncommon thing for men to be siezed upon at the mere direction of some boy-commissioners, and chained to trees during the intense mid-day heats, the offence charged against them being simply that of digging for gold without a license. The respectable men who paid the fee did not desire to see the law, however unconstitutional and arbitrary, evaded; nor did they desire that humanity should be outraged in a British colony, and those personal privileges which are considered sacred throughout the British dominions infringed upon. The Ovens was the scene of the first outbreak, which occurred in January, 1853, and an assistant-commissioner, named Myers, was rather roughly handled by the diggers, to whom he had become particularly obnoxious by his general mode of administering the law.

A more serious disturbance took place in the month of May, on Forest Creek. So correctly had the police copied the manners of their superiors that the entire corps had, at this period, a most unenviable notoriety. There were many sly-grog tents on the Forest Creek diggings, and the police had a very summary method of dealing with such cases, by attacking and burning the tents, with all that they contained. This was right enough. The only

objection that could have been brought against it was, that there was no form of trial deemed necessary. But it was alleged that the police gave the really respectable storekeepers the benefit of their attention, and regarded less the guilty parties who should have been under their surveillance. The case of a trader, named Mahon, was much before the public. The house which he kept for boarders was attacked and demolished, and every kind of insult offered to his family and lodgers. The public, moreover, believed him to be guiltless of the charge alleged against him. The informers were, one Mangan, and a trooper, named Christian, who were considered as little better than perjurers; and, as it was made apparent that any respectable person might be deprived of his liberty and have his property destroyed under the pretext that he sold grog, the public indignation was aroused to such a pitch that the military and police were called out, ready to act. The following notice was posted about Forest Creek:

MEN OF CASTLEMAINE,

Meet on the hill behind the Baptist Chapel, to discuss relative to the proceedings of the Government on Saturday night. Chair to be taken at four o'clock this day.

N. B.—The Sheriff has been invited to attend.

You are requested to attend the Police Court, on Monday next, at half-past nine o'clock, and watch the proceedings.

Police v. Mahon.

Police v. Adams.

The magistrates acquitted Mahon, and gave the accusers into custody, to answer the charge of perjury; but no effort was made to reimburse the injured individual for the heavy losses he had sustained.

The next morning the following was posted about the diggings:

Down with the trooper, Christian, and shoot him.

Down with oppression and the tyrant Berkeley.

Diggers, avenge your wrongs and demand your rights; or, otherwise you will live and die all slaves.

Down with the camp; up with Christian. Cry no quarter, and show no mercy.

The meeting convened in this rude style was numerously attended, and, although the public indignation had partially subsided, the proceedings demonstrated but too clearly that the affections of the people had been alienated from the Government.

About the same time a feeling of indignation, at the general mismanagement of the authorities, exhibited itself on Bendigo, which had a very large population, composed mostly of young and active men. Several public meetings were held, at which sentiments of a revolutionary character were enunciated openly, not only without censure but with strong expressions of approval. In the beginning these proceedings were viewed by the Executive with the most perfect indifference, for it appeared to have been the policy of Mr. LaTrobe's Government to treat the opinions of the people, up to this time, with supreme contempt. It made no effort either to conciliate the well-disposed portions of the digging population, or to coerce those whose conduct might be deemed dangerous to the peace of society. The great cause of complaint was the license-fee of thirty shillings per month, which the majority found to be a most severe tax, and they strongly urged upon his Excellency the futility of any longer expecting them to pay it; but he turned a deaf ear to a deputation which waited upon him to urge the propriety of concession. He could have receded at this point without bringing his administration into contempt, as he might have acted graciously and justly; and reduced the fee, which was unquestionably an unfair tax, pressing most unequally upon an important class on the gold-fields. When informed that the diggers would resist, he said, in a vaunting tone, that, "if they did, he was determined to do his duty"—that was, to compel them to pay the fee; and in a despatch, which he wrote at the same time to the Governor-General, at Sydney, he urged, as strongly as possible, the absolute necessity of maintaining the license fee of thirty shillings per month. Had Mr. LaTrobe been a wise governor he would have granted the petition of the Bendigo diggers; had he been a firm man he would have adhered to his resolution to maintain the license fee; but the sequel showed that he was neither the one nor the other. When the agitation had increased, and there seemed every prospect of an outbreak, the officer who had boastfully said he would be prepared to do his duty, pusilanimously struck to the revolting diggers, without delivering one blow on behalf of law and order. In a few days after he had made the vainglorious boast, and almost before the ink was dry on the paper on which the despatch to the Governor-General had been

written, he consented to abolish the tax, and sent a proposal to the Legislative Council to that effect. The only excuse that can be urged for conduct so inconsistent is, that, in his anxiety to prevent bloodshed, he made this extreme concession to popular violence.

The license fee was, no doubt, a most oppressive, nay, an unjust, tax, and as the chances of individual success diminished, the more annoying did it become; but the great danger which the country ran, at this crisis, was from the general disaffection amongst the digging population. Those who, under ordinary circumstances, were favorable to order were so disgusted with the tyrannical and insane conduct of the officials that they would, in case of an *emeute* having taken place, most probably, have remained neutral as simple spectators. They would not have cast in their lot with the malcontents, in actual hostility to the constituted authorities; but, on the other hand, they, most certainly, would have refused to assist the authorities in any struggle which might have taken place.

Mr. LaTrobe, we believe, gave unintentional offence to the malcontents in the following way:—The Legislative Council had just been increased by sixteen elective members, which, in accordance with the constitution of the colony, gave his Excellency the power of nominating eight members, and he included amongst the number a gentleman from Bendigo as a representative of the diggers; but the malcontents resented this act of grace, and declared that his Excellency could not nominate any man to represent them, and demanded that the franchise should be placed in their own hands. The following resolution was passed at a monster meeting held on Bendigo:—

“That the meeting regarded with contempt the appointment of any nominee to represent their rights in Council; and that, if any nominee so appointed entered the Council, it would be in opposition to the will of the people of Bendigo.”

The alterations proposed to be made in the license fee were announced to the Council on the last day of August, by Mr. LaTrobe, who said:—

“The present act for the management of the gold-fields will expire with the year. In any case it would be necessary to pass another act—but the objections to the present license fee, and the practical difficulties in the way of collecting it, have forced them-

selves latterly so strongly upon me, that I am disposed to propose to you its total abolition, merely reserving a registration fee for police purposes. A loss of revenue to a large amount will be thus incurred, which I propose to supply by a revision of the tariff, including an export duty on gold. It is my desire that every regard should be had to the just and reasonable wishes and interests of the class of colonists which may be more directly affected by these arrangements.

The bill immediately introduced proposed to substitute for the license of thirty shillings a month a fee of forty shillings for the remaining four months of 1853; it almost immediately passed into law. This conciliatory measure appeared to have the desired effect, and the serious disturbances which had been taking place gradually subsided. The last monster meeting on Bendigo occurred on the 30th of August. The diggers had contented themselves with resolving that they would not pay the license fee, and that, if it were demanded of any of their body, the whole would go *en masse* and surrender themselves to the commissioners. A remarkable circumstance took place about the time, which showed that the Bendigo diggers were not disposed to perpetrate any act of violence other than such as was necessary to obtain what they deemed their just rights. One of the most forward in these movements was a gentleman named Captain Brown, and about this time he was charged by a respectable store-keeper on Bendigo with having threatened to burn down his premises because he would not subscribe funds to carry on the agitation. He was committed for trial, and forwarded to the gaol in Melbourne, without any expressions of sympathy from the diggers, who seemed to detest such dastardly conduct, and willingly to abandon their quondam leader to his fate. Any person who has read this chapter to this point would naturally suppose that the Government would have been careful not again to tamper with the excitable diggers of Bendigo. The country had been in the greatest danger, but had fortunately escaped; and it would now have been wise to act with more caution in the administration of the public business on the gold-fields. At the very moment, however, that order had been re-established, and the diggers grateful for the concession which the Government had made, and well disposed to become good and peaceable citizens, the Executive managed again to set the smouldering embers in a blaze.

The intention of the Government not to enforce the license-fee had been announced to the diggers by the following notification, signed by the Chief Commissioner of the gold-fields:—

GOVERNMENT NOTICE.

His Excellency the Lieutenant-Governor has been pleased to notify that it having been decided to propose, without delay, another mode of raising a revenue in lieu of that now derived from the gold-fields, this measure will at once be presented to the Legislative Council; *but, in the mean time, no compulsory means shall be adopted for the enforcement of the license for the month of September.*

Several persons having applied for protection against violence, which has been threatened to them, all orderly persons are assured that ample means are at the disposal of the authorities for that purpose, and that prompt aid may be relied on whenever necessary.

(Signed)

W. R. WRIGHT.

Commissioner's Camp, Sandhurst.

But scarcely had the agitation subsided when the following notice, of an exactly contradictory nature, was issued:—

PUBLIC NOTICE.

Colonial Secretary's Office, Melbourne,

September 1st, 1853.

His Excellency the Lieutenant-Governor directs it to be notified that the proposed abolition of the license fee to gold-diggers in no way affects the obligation of any one to pay the current licence fee until a new act may be passed by the Legislature. In the meantime the law must be observed. His Excellency relies on the good sense and loyalty of the community, and the influence of their example, in supporting order and maintaining the law.

By his Excellency's command,

(Signed)

JOHN FOSTER.

This was at once deemed a revival of the contest, and all classes beheld it with alarm and consternation. The agitation was renewed with greater violence than ever. The bill to alter the gold license had to be hurried through the House, and at once assented to by his Excellency, before the troubled political waters once more subsided.

The Executive and Legislature were severely blamed for making so great a concession to the diggers, particularly when the demand was urged by threats of resistance by physical force. There is no doubt that, for any Government to give way to revolutionary clamor is the certain way for it to weaken the prestige of law, as well as the

potency of the administrative functions ; such concessions inspire those revolutionary and uneasy elements held in solution in such societies as are found congregated on very new gold-fields. It may, indeed, be open to discussion whether, in the first instance, a conciliatory or coercive policy ought to have been used. The latter, if more dignified, would have been more hazardous had it failed. The incendiary who lights a fire may set a city in flames ; the demagogue who fires a shot in outrage of law may be the occasion of the destruction of a whole community. The conduct of his Excellency, Mr. LaTrobe, cannot be too severely censured, in the first instance ; but, when the crisis had actually arrived, and there appeared no other possible chance of escape, both branches of the Government followed, most probably, the only course that could have saved a considerable amount of life and property from destruction. When the peculiar circumstances of Bendigo at the time are taken into account, it is probable, if any collision had taken place between the authorities and the malcontents, that the idle and dissolute vagabonds congregated about the diggings would have plundered the colony while split up into contending factions, and that an awful scene would have been witnessed, which any historian must rejoice to have escaped the necessity of recording. At this period, notwithstanding the high tone adopted by the Governor, the colony was nearly unprotected. Considering the inflammable ingredients of the population, and the manner in which the single men were congregated in gregarious masses, this was a sad oversight. Mr. LaTrobe despatched expresses to all the neighboring colonies for troops. Most fortunately, the 99th regiment, stationed in Van Diemen's Land, was unemployed, and was at once sent off for Victoria ; when it reached the colony there was hardly a soldier in Melbourne.

The historian can hardly condemn the diggers for resisting the exorbitant license fee. The men of Bendigo viewed it as an unfair tax upon their labor, imposed by a Legislature in which they had no representatives, enforced by ignorant officials, who rudely deprived them of their personal liberty ; and we dare not go so far as to say that they did wrong to resist. Fortunately for the country, the dispute was settled without an appeal to that terrible arbiter,

the sword. The people of Bendigo accepted the new measure as an instalment of their rights ; and the reduced fee was not considered too high, and was cheerfully paid ; the Anti-Gold-License Association was dissolved, but a new institution—the Gold-diggers' Union—was inaugurated in its place, with the avowed object of protecting the social and political rights of the diggers.

In calmly reading the papers connected with the Bendigo disturbances of 1853, we cannot but be sensible of the great advantage of a proper system of representation, by means of which the real views of important sections of the community may be brought properly forward, and their necessary wants receive sufficient attention. That the Bendigo men wished for nothing beyond simple justice—that they were, in the main, good citizens and loyal subjects—will, we think, be proved by a letter from Lieutenant-Colonel Valiant, which was laid upon the table of the Council, and printed in October, 1853. It states that “the appearance of matters was very threatening, and a collision very probable.” He says, in reference to the Commissioner's proclamation :—

“It admirably served two important purposes. In the first place, it caused the diggers, as a body, to pause in their headlong career, and reflect. They then saw the precipice to the verge of which they had been urged by the designing few, whose objects were doubtless of a far less innocent character, and from which, I am convinced, they at once recoiled with horror ; and, secondly, it indisputably exhibited the important information that the great mass of the diggers had only one object in view, viz., to bring to the notice of the Government the great grievance of which they complained (however wrong their mode of doing so)—the amount of the gold license fee.”

The committee of the Legislative Council, of which Mr. Foster was chairman, to which the bill for the reduction of the license fee was, in the next session, referred, traced the first agitation on Bendigo to foreigners, who brought with them feelings of discontent against public authority, and the number of expirees and criminals from the neighboring colonies. It then admits that all united in opposing the 30s. license fee, “which, in the opinion of the committee, pressed heavily upon the unsuccessful, a class forming a considerable portion of the mining population.” The great preponderance of the evidence, therefore, leads us to arrive at the conclusion that dire necessity, alone, had forced the mining population to make a

stand against it upon this occasion ; that, although they did not contemplate direct resistance to the constituted authorities, they were yet prepared to repel force by force ; and that, if timely concessions had not been made, a collision between the diggers and the authorities must have ensued.

One of the questions which early attracted a great amount of attention was the necessity of establishing a mint for the colony of Victoria. It has already been shown that, at first, the capital of the colony was totally unable to grapple with so great an export ; for a long time the price was much lower than in Europe ; indeed, from October, 1851, to June, 1852, it ranged from fifty-eight to sixty-three shillings and six-pence for virgin gold, which was worth about eighty shillings in London. This was a mere accident, which must have rectified itself in the course of events ; for, when British merchants discovered that so great a return could be obtained upon capital, it was next to a certainty that the ordinary laws of supply and demand would have caused a sufficient influx of capital to buy all the gold there was to sell. The diggers would not, however, wait the effect of competition on the price of bullion in Victoria, but began to argue strongly in favor of a local mint, in order that they might turn their gold into standard coin. These views were supported by several influential colonists, but opposed by the author of this history, who wrote a letter to one of the local newspapers, contending that they were mere fallacies. This is a question upon which opinion is still divided ; and it may not be out of place to repeat the arguments used upon the occasion referred to.

“The Bank of England is compelled by its charter to purchase gold, twenty-two carats fine, at £3 17s. 6d. per ounce, which is, therefore, its fixed price in the London market. In Melbourne the price is £3 6s. 6d. ; therefore gold is at present 11s. per ounce dearer in the former than in the latter market. This is a large profit if sent home as a remittance, but it will barely pay as a speculation. The rate of exchange is ten per cent., and to those who have taken the £2 per ounce this would be pretty high over and above the bank advance freight, insurance commission, re-exchange and other charges, and would reduce the profit to a very small sum if the gold were only of standard purity. Much has been said in reference to the derangement of our exchange, but whenever the

commodities sent by one country to another are greater in amount than that of the produce received, it follows that the exchange must be deranged. The banks do not gain when the exchange is deranged; and the Melbourne bankers would do a more profitable business if it were nearer par, when they could sell and buy to a large amount without having a heavy balance thrown upon one side, which can only be reduced at a considerable expense.

"Gold, although itself the standard by which the value of every other article of production is measured, is yet, as a production, subject to the ordinary rules of political economy. It has not hitherto attained its fair value here; but why? In the infancy of the trade our colonists were not acquainted with its exact value and its purity. Our traders were scarcely able to grapple with a new export of such enormous amount, and the machinery to carry on the trade was incomplete. By nearly every person the want of capital has been assigned as the true and only cause of the low price of gold; but many of them appear to confound capital with currency, and therefore we may remark, that the latter was in no way diminished, as the bank returns prove that all the money they advanced upon gold came back to their coffers in the shape of deposits. The gold expended by our first shippers, who received, in many cases, 50s. advance, came thus, in fact, to be a foreign balance—a debt due to the colony by Great Britain, and one which will be honorably paid. The price was, in the first instance, low, but the colony will be no sufferer, although, we regret to say, the producer, in most cases, will. The gold was exported by colonists, and the full price of the article will be returned for reinvestment in the colony. At no period was there any want of currency, for the average in Great Britain, where both direct and indirect taxation is much greater than here, is £10 per head of the population.

"It is admitted that the colony was taken by surprise when the gold discoveries threw such a plethora of wealth into our market; but, being an article of barter, like flour, it must speedily arrive at its fair value. If it will pay a very moderate profit to import it to Britain, there are hundreds who will do so; and it will reach its real value so soon as commercial enterprise can act upon it; and the price must equalize the two markets long before a mint could be in operation. We think, therefore, that it will not be very difficult to demonstrate that the gold necessary for the purposes of a local currency could be coined better and cheaper at the Imperial mint, and that the colony might thus be saved an enormous and unnecessary expense.

"Bullion has been coined by different states for convenience only, excepting in a few cases where a profit has been obtained by defrauding the public. It facilitates local traffic, because it would be most difficult to measure in every case the exact amount of the precious metals which ought to be given for other commodities. There is, however, no real difference between coined gold and bullion,

the intrinsic value of each being so much per ounce at a certain standard of purity. The coin of foreign countries, therefore, has to be melted into bars before the Bank of England will purchase. During the continental wars of Napoleon the expenses of the British armies were remitted in bullion; at the present day the balance of exchange between the great commercial countries of the earth are paid in bullion. Thus, in years of scarcity, when large importations of corn into the kingdom of Great Britain became necessary, the decrease of bullion in the vaults of the bank of England keeps pace with the arrival of corn from the Baltic and the United States, and the immediate reaction of the issue of paper by the Bank of England proves that the basis of its issue is bullion, not *specie*. How would it benefit the colony if we had a mint? If the expenses of starting the machinery and bringing out the workmen, as well as keeping up the local mint, be taken into account (which in justice to the public they ought to be), in the charge for coining, it will be found that it must be the same with gold as wool, and cheaper to send home the raw, and import the manufactured article. If we had, however, a mint, what amount would be coined? It would be very trifling; those who had *specie* would not require it, and so soon as it issued from the mint it would be turned into the vaults of the banks in the shape of deposits, and for nearly every purpose be less marketable than bullion; because, after all, the precious metal is not required for a currency, as the mint advocates would endeavor to prove, but as an export to pay for what is necessary for the colony, which we shall speak of more fully before we conclude this letter. A paper is more convenient than a metallic currency, and, by the majority of individuals, will be preferred; all that is necessary in a paper circulation is, that the public have security. Now, if our gold were coined it would be thrown upon the banks, and their paper used in its place; and their issues might rest as safely upon bullion as *specie*. I am certain that, from the quantity of the latter which will soon be sent out, and which will accumulate here, if we had a mint, sovereigns would be at a discount in Victoria; and that our government could ultimately maintain any coin at a higher value than the exact amount which it contained of the precious metal. We need not go back to the French assignats during the Directory—to the Austrian government circulation at the present moment; but we content ourselves with taking the case of South Australia, where a kind of gold currency has been legalised by law, and a fixed value consequently put upon it; the effect has been, that Adelaide bank-notes are at a premium of from $2\frac{1}{2}$ to $3\frac{1}{2}$ per cent., and Melbourne bank-notes at a premium of 5 per cent. These notes are not paid into the banks, 'lest,' says the *Adelaide Times*, of 27th July, 'on presentation of their cheques, parties to whom they are paid should be turned off with the ingots (the gold currency of South Australia) instead of notes.' A species of private banks had commenced, and a general traffic in the notes of the different banks

had become general in Adelaide. We think, therefore, that the gold productions of the colony must be chiefly used for foreign and not home consumption; and that the amount required for the latter would be much diminished, if the banks were permitted to hold that portion of the precious metals which is necessary as a precaution (over what is required in business) in every shape which they might think fit. If the gold is to be turned into coin—if it is to be kept in the colony—the Mint might be advantageous; but if it is to continue an article of commerce, the competition of the merchants of Britain will speedily equalize the price, and do, without any expense to the colony, all that could be effected by a local mint.

“The whole that the numerous advocates for a mint contend for is, that it would give gold *for home consumption* a certain standard value; that, in short, it would force it to be worth a certain sum in coin, whether it were worth it as merchandise or not; and even at their own showing it would only be worth the mint price, and so much higher would be the charges for coining here than in England, that the English capitalist could always outbid the local mint.”

CHAPTER XVII.

OPENING of the Third Session of the Legislative Council—The New Constitution for Victoria—Its Principles considered—Departure of Governor LaTrobe from Victoria—Arrival of Sir Charles Hotham, and his Reception—Historical Account of this Governor—The high opinion which the Colonists had formed of him—The difficulties he had to encounter in assuming the Government at this period—His want of experience of Popular Government, and injudicious Speeches to the People—Want of cordial support from his Executive Council—Disorganized state of the Public Business—The Government receives instructions to liberate the prisoners confined under the Convicts' Prevention act—Great Excitement amongst all Classes—The Country Municipalities act—The Hobson's Bay Railway opened—Melbourne Gas Company commences operations.

THE Legislative Council, which had now been increased in accordance with the expansion of the wealth and population of the colony, was opened in its third session by his Excellency. The St. Patrick's Hall, where the members assembled, presented a more than usually animated sight upon this occasion. The new Colonial Secretary, J. V. F. L. Foster, Esq., made his appearance as the leader of the Government or official division of the House. He was one of the early colonists of Port Phillip, and had been

returned as one of the members to represent the colonists in the old New South Wales Legislature. He had after this returned to Britain, and, by dint of perseverance and the exertion of such interest as he possessed, had succeeded in obtaining the Colonial Secretaryship of Victoria. His Excellency, having congratulated the members of the Legislature upon the general prosperity of the colony and the augmentation in their number under the act passed in the former session, announced the intention of the Imperial Government to grant enlarged constitutional privileges to the Australian colonies; and, on proper safeguards being adopted, to make over to them the power hitherto reserved for fixing a civil list—controlling the Crown revenues—and managing the waste lands of the Crown.

The only other matter of importance touched upon was the proposition for abolishing the license on gold diggers, and imposing merely a registration fee; this has, however, been already discussed in the previous chapter.

On the 1st of September the new Colonial Secretary introduced the important question of this session, by moving for a committee to prepare a constitution in order to submit the same to the Council. The great point in dispute, in reference to the proposed constitution, was the double chamber. In the discussion on the former bill * Earl Grey had stood alone in maintaining that one House would be sufficient. Sir William Molesworth, Lord Monteagle, and Mr. Gladstone, on the contrary, were all favorable to two chambers. This was the opinion usually entertained in the colonies, the nominee system being generally regarded as a partial, if not a total, failure. But a wide diversity of opinion prevailed as to the exact functions of the upper chamber, and the basis upon which it should be constituted; and there can be no doubt this was a question of considerable difficulty. It was very desirable to have a second branch of the Legislature, less subject to influence than the Assembly of popular representatives, in order to guard against impulsive action and hasty legislation; and yet to create such a chamber as would possess puissance and influence was difficult. If the Council were to be composed of nominees of the Crown few men of respectability would enter it, and

* The Better Government of the Australian Colonies bill.

seats in the other branch would be held in so much greater estimation that the upper chamber would not command the confidence of the inhabitants of the colony, or sufficiently influence public opinion. In the discussions which followed on the framing of, what is termed, the constitution under which responsible government was introduced, there were some who advocated the nominee and others the elective principle, and there were one or two who proposed a kind of compromise between the two, by what was termed the intermediate plan. This was simply that the Assembly should nominate the members of the Council, and that they should not be members of the Assembly. After the subject had been discussed at some length, the elective principle was adopted as the least liable to objection; and, in the absence of materials from which to form a chamber of hereditary legislators, it must be evident that no other basis would have sufficed to give the Upper House a sufficiently independent standing with reference to the Executive Government, and the other branch of the legislature. Had the principle of nomination been adopted the Council would have been merely the response of the ministry of the hour, as has become the case in Canada; had the popular chamber been entrusted with the nomination the Council would never have had that independent action which it must, to be useful, possess. Circumstances have occurred since the inauguration of responsible government which have demonstrated how far some members of the Assembly would go in endeavoring to limit the free action of this great safety-valve, which is not only calculated to preserve the Crown from the violent assaults of democracy, but also the people from the tyrannical conduct of the government, and its arbitrary ministers. Because those contingencies are latent they are not the less hazardous. In the course of his opening address his Excellency remarked on the probability that, before the close of the session, he would have surrendered the charge into other hands, and said that he could not but entertain some degree of personal pride in having been permitted to mark and record the advance of Victoria for so many successive years in importance and material prosperity; that he entertained the confident belief that the moral growth of the colony would be found fully proportionate to her physical expansion. The session extended over seven months, Mr. LaTrobe still conti-

nuing at his post; but on the occasion of proroguing the House, on the 12th of April, he announced that the delay in nominating his successor had arisen from the desire of the Duke of Newcastle to obtain a competent governor for Victoria; this he had at last accomplished, and he now officially announced that Sir Charles Hotham had been appointed to succeed him.

His Excellency Mr. LaTrobe finally departed on the 5th of May, by the *Golden Age*. A very short time previously the melancholy intelligence had reached the colony of the death of Mrs. LaTrobe, on the 30th of January previous. This event was quite unexpected. She had left Melbourne in good health with her family in the *Blackwall*, expecting to be joined by his Excellency in a few months; this anticipation was not realised, Mr. LaTrobe scarcely being in a position to leave his government so speedily as he had anticipated. Much sympathy was expressed for him in consequence of this bereavement, and the leveé he held on the morning of his departure was tolerably well attended. He was conveyed on board the *Golden Age* by the barge of H. M. ship, *Electra*, and was accompanied by most of the officials of the Government. A very melancholy accident occurred at the moment of his Excellency's embarkation. A boat upset in consequence of some unskillfulness on the part of the boatmen, and Mr. Samuel Barrow, chief immigration agent, and a staunch supporter of the departing governor, was unfortunately drowned. The Imperial authorities had not censured Mr. LaTrobe in any case during his tenure of government, but on his arrival in London the Secretary of State for the Colonies was far from satisfied with some of his later proceedings in Victoria. He had resided in the house of a gentleman receiving the pay of the State, and he accepted plate from his friends previous to his departure from the colony. He has not been employed in any public appointment since; and, much as we have condemned his policy and general conduct, we cannot but consider him unfairly condemned on these paltry charges. Mr. LaTrobe left a fine property behind him, which, had it been sold then, would have realised at least forty thousand pounds. It has since been in the market and a portion sold, but we believe it has very much decreased in value. The Colonial Secretary, Mr. Foster, administered the government during the

period that elapsed between the departure of Mr. LaTrobe and the arrival of Sir Charles Hotham.

The Government had intended to despatch a ship of war with the new Governor, but the Russian dispute interfered with this arrangements, and he was under the necessity of taking his passage in the *Queen of the South*. This vessel, with Sir Charles and Lady Hotham on board, entered Hobson's Bay on the 21st of June, 1854; they were accompanied by Captain Kaye (as private secretary to his Excellency) and Mrs. Kaye. The moment the vessel was signaled the Mayor of Melbourne proceeded on board and informed his Excellency of the preparations which had been made to receive him. On the following morning Sir Charles and Lady Hotham landed on the Sandridge pier, where they were received by the principal officials; his Excellency was met and welcomed by the whole of the public bodies of the colony that had turned out for the occasion. The procession extended from Sandridge nearly to Prince's bridge; the road was lined with spectators, who cheered the newly-arrived Governor and his Lady most heartily. A triumphal arch had been erected on the bridge, through which the procession passed, and the words, "Victoria welcomes Victoria's choice," was worked in blue letters on a white ground over head. On reaching the Government offices Sir Charles was officially installed; the proclamation and the letters patent of her Majesty, signed by the Duke of Newcastle, were read, and his Excellency made the official proclamation of having assumed the government of the colony.

Upon this occasion his Excellency, acting apparently upon the impulse of the moment, addressed a few words to the people, stating, "that, in his administration of the government of Victoria, he would look neither to the right hand or to the left." From the Government offices Sir Charles and Lady Hotham proceeded to the new vice-regal residence at Toorak, a beautiful villa on the south bank of the Yarra, which had belonged to Mr. James Jackson, a deceased merchant, but which had been rented by the Executive, and carefully fitted up for his Excellency's reception at a most extravagant cost. On the following day he visited some of the public offices, and finding some of the officials idle about eleven o'clock in the forenoon, he expressed his dissatisfaction. The people began to

regard their new Governor as a rigid disciplinarian, while the public officials were rather uneasy and discontented.

The first levée held by Sir Charles Hotham, on the 1st of July, 1854, the third anniversary of Separation, was crowded with gentlemen who came from all parts of the colony to do honor to the representative of their Queen; the greeting between his Excellency and the Victorians was most cordial on both sides.

This appears the proper place to give a short sketch of the new Governor, from whose administration so much was expected.

Sir Charles Hotham, K. C. B., was descended from an ancient English family, many members of which arrived at considerable distinction. He was the son of the Rev. Frederick Hotham, prebendary of Rochester, and late rector of Dennington, Suffolk. He was grandson of the second Lord Hotham, one of the barons of the Court of Exchequer; his mother was Anne Elizabeth, eldest daughter of Thomas Hallett Hodges, Esq., of Hemsted place, Kent. Sir Charles entered the navy on the 6th of November, 1818, and was present in a gallant engagement between the boats of the *Naiad* and a brig of war, alongside the walls of the fortress of Bona, in which was a garrison of 400 soldiers, who kept up a most tremendous fire almost perpendicularly on the deck. In September, 1825, he was made lieutenant in the *Revenge*, 76, flag ship of Sir Harry Bunard Neale, of the Mediterranean station. He was next appointed, 15th May, 1826, to the *Medina*, 20 guns, Captains Timothy Curtis and W. B. Greene; and on the 8th December, 1827, he was appointed first lieutenant of the *Terror* and *Meteor* bombs, Captains David Hope and William Fletcher. He distinguished himself on the occasion of the wreck of the *Terror*, and in consequence he was promoted to the rank of commander on the 13th August, 1828. After an interval on half-pay he was appointed to the *Cordelia*, 10 guns, and returned to the Mediterranean; he came home on the 2nd October, 1833, having been raised to the rank of post-captain, in compliment to the memory of his uncle, Vice-Admiral Hon. Sir Henry Hotham, K. C. B. He was appointed to the *Gorgon*, steam sloop, stationed on the coast of South America, on the 25th November, 1842. In November, 1845, in conjunction with several British ships, and a small French force, under Captain Tréhouart, Captain

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Hotham ascended the Parma, and, on the 20th, engaged with four heavy batteries belonging to General Rosas, at Punta Obligado, which he succeeded in demolishing; he also destroyed a schooner of war and twenty-four vessels chained across the river. He landed towards the close of the action with 180 seamen and 150 marines, and attacked and defeated the forces of General Rosas, which were said to have amounted to nearly 3000 men. In acknowledgment of the zeal and ability of Captain Hotham, he was in March, 1846, nominated a K.C.B.

Mackinnon, in his work, "Steam warfare in the Parma," published in 1848, says, in reference to the brilliant affair on the Parma, "The great secret of the success which crowned almost every effort, with one miserable exception, was due, firstly to the excellent arrangements which, by the powers of steam, were so perfectly and expeditiously carried out; and secondly to the admirable nature of the ordnance and the skilful application of its various branches. Where the leader is of great ability, and possesses the confidence of those under his command, coupled with such *materiel* and *personnel* as Sir Charles Hotham had under his control, it is not surprising that every thing succeeded admirably." Sir William Gore Ouseley, at the period her Majesty's Minister Plenipotentiary to the States of La Plata, in his account of the action, says, "it was not believed that any serious objection would be made to the advance of the blockading flotilla. However, when the fire had been opened by the Buenos Ayreans at Obligado, it became, of course, necessary to return it, and the result was the general engagement that ensued. When it is recollected that the scale on which the defences had been prepared was quite unexpected, and that the Buenos Ayrean force employed was much greater than was anticipated (amounting to about 4000 men), while the nature of the other obstacles to be encountered was previously unknown, it will be evident that the skill and experience of the able officer who commanded the squadron were put to a severe test, and that it required his well-concerted arrangements in the plans of attack, and the gallantry displayed in carrying them into effect, to obtain the successful result that added to the high professional reputation of Sir Charles Hotham, already too well known to require any tribute here." Sir Charles was afterwards, in 1845-6,

sent, in conjunction with Baron Defandis, on a mission to Paraguay, and the manner in which he discharged that important trust recommended him to her Majesty's Government.

In April, 1852, he was appointed Minister Plenipotentiary, and directed by the Earl of Malmsbury, the secretary of state for foreign affairs, to proceed, in company with M. L. de St. George, on a joint special mission to Brazil and the Republics of the river Plata, for the purpose of promoting peace between them, and, more especially, for the opening up of the trade and navigation of the noble arteries of that river. He succeeded in negotiating the treaty, and the ability and perseverance he displayed on this occasion induced her Majesty to appoint him to the Governorship of Victoria. Sir Charles Hotham married, 10th of December, 1853, Hon. Jane Sarah Hood, daughter of Lord Bridport, and relict of Hugh Holbech, Esq., of Farnborough, Warwick.

The new ruler of Victoria was welcomed with the greatest enthusiasm by all classes. His arrival amongst them marked, as they hoped, a new and brighter era in the history of the colony. Mr. La Trobe had belonged to the "olden times," and had never occupied the position, nor acquired that weight, in the eyes of the people which the representative of the Crown ought to possess. He had risen from an humble position, and had merely by accident been placed in the important position which he occupied. Sir Charles Hotham had distinguished himself, and was connected with the best families in the parent state; he was thus enabled to commence his career under very favorable circumstances, and the good feeling towards him was unbounded, and was exhibited by every class of the people. He visited the diggings and the more important townships throughout the colony, and everywhere his progress partook of the character of an ovation. The old and respectable colonists were under the impression that Sir Charles Hotham was an experienced and cautious man, who would exhibit profound sagacity in administering the business of the colony. They were much surprised when he commenced his career in Victoria by a public profession of the most ultra-democratical principles; indeed, so extravagant were his declarations of the sovereignty of the people and other radical doctrines, that the ultra-liberal press could scarcely

keep pace with him. They generally professed to be gratified; yet, they were rather at a loss to fathom the aim and object of these popular expositions. It, perhaps, scarcely agreed with their ideas that the head of the Government should go beyond them in the profession of principles of extreme liberalism. The diggers and people received those words with the utmost avidity. The new Governor was set down as a heaven-born ruler, sent to do them justice and redress their grievances, of which they had not a few pressing heavily enough upon them. The men of more matured experience, wiser than either the people or their ruler, looked on with considerable alarm. They admitted that Sir Charles was honest and well-intentioned, but they were surprised at his want of prudence. He certainly lost his prestige with the intelligent people as his real character began to exhibit itself. A governor who had acquired considerable experience in ruling colonies, where his advisers were responsible to the popular representatives, would have had a task of no ordinary difficulty to encounter on assuming the reins of power at this time; and it is not to be wondered at that Governor Hotham, who was utterly inexperienced in conducting such an administration, should have failed. His want of experience might have been supplied by his Executive Council, but they were not his cordial supporters, and rendered him but little assistance. He found the whole of the affairs of the Government in a state of the most fearful disorder. He endeavored to introduce some necessary reforms, and the officials were all afraid of his stumbling upon abuses which might get them into trouble. In this juncture he had visited the country districts, where he most unfortunately replied to the popular sympathy, which was so generally expressed, by warm and generous responses, not anticipating that they would be reported and read in their literal sense. At a public dinner, held on the 16th of August, 1854, at Geelong, his Excellency, in the course of a speech, said, "The people of this colony have adopted one of the most liberal constitutions, compatible with monarchy, that the people could have; it is a constitution of your own choosing, formed by your own representatives, lauded by the press, and admired by many enlightened statesmen. When you adopted that constitution you adopted with it the principle from which it springs, that all power proceeds from the

people. It is on that principle that I intend to conduct my administration. In the present day a Government cannot be conducted with satisfaction to the people without the fullest and freest communication with the people."

The Governor could scarcely have anticipated that the advanced intelligence and the owners of property would take alarm at such expressions. Such, however, was the fact; for Sir Charles was not in the same position as when sent on diplomatic missions to foreign states, where what he said was deemed mere compliments; all his words were now deeply weighed and regarded by the colonists as an enunciation of his intended policy. The heads of the departments were perhaps less sorry at the mistakes which his Excellency unfortunately made than any other class, for they must have at once perceived that he would have work enough upon his hands without making unpleasant investigations in the public offices, the result of which no man could well foresee.

Sir Charles Hotham desired sincerely to do his duty to his sovereign, to govern the people well, and to deserve their approbation. No ruler could have been actuated by better intentions; he was far from deficient in ability, but he wanted tact and experience. He had no one to aid him, and he failed in accomplishing what he intended. The Government departments were at this period in a state of bewildering disorganisation. We do not mean to insinuate that the high government officials had actually pocketed any of the public money, but they had been guilty of conduct which an officer like Sir Charles Hotham, who had said he would regard no man in his administration of public affairs, would probably have visited with the severest censure. The noble revenues of the colony had been squandered under the infamous imprest system;* no proper

* The confusion in the public accounts occurred after the resignation of Mr. Ebdon, and the introduction of the imprest system. This was tolerated, if at all, to a very limited extent, when Mr. Ebdon was in the Audit office; but the money imprested was small in amount, and had to be accounted for to the Government before the department could obtain any more funds. In the time of Mr. Ebdon's successor sums of enormous magnitude were allowed to the heads of the departments, and no correct account delivered for a long time afterwards. The Hon. Mr. Mitchell, formerly Chief Commissioner of Police, who was recently examined before a Select Committee of the Legislative Assembly, appointed to inquire into certain charges preferred against Captain McMahon, on being questioned in

account had been kept of the manner in which they had been swallowed up. Enormous amounts had thus disappeared; in one department, that of the Civil Commissariat, a very large sum, amounting, we believe, to nearly three hundred thousand pounds, was unvouched for. Regular statements were, however, prepared and submitted to the Legislature, who, under the old system, had no means of obtaining correct information on the state of the public accounts. Mr. LaTrobe was a red-tapist, plodding enough in composing despatches to the Colonial office, but wanting in the necessary energy to grapple with such an accumulation of abuses as had grown up within a few years. Sir Charles Hotham found that the revenue for the six months previous to his arrival was short of the estimate by a sum that seemed incredible, and that his administration was plunged into monetary difficulties. The financial position of the colony will be best ascertained from the following extract from his Excellency's

reference to the work performed on certain police buildings, admitted that the officials could spend any money that they thought fit—there was no check on them! "He could have had £100,000, and no one have found it out." (No. 253.) In all the departments it was the same—there was no check to prevent Government officers from taking as much as they liked. In the year 1853 there were £290,000 voted for Police, and under the imprest system the department drew £560,000. The following extract from the printed minutes of evidence of this Committee will further explain the imprest system. Mr. Mitchell is asked

203. I presume the mode in which that money was spent, the general feature of it, was something like this—you would apply to the Treasurer for a sum of money sufficient for the requirements say of the next month?—We never could tell; sometimes what we supposed would suffice for a month would not last a week.

204. How did you get the applications, in regard to the money, made?—It rested between the paymaster and the Treasurer.

205. Suppose you start on the first of January, say, how would you proceed, what regulated his estimates of the want of the force?—I cannot say.

206. Suppose he wanted £300,000, how would he apply to the Treasurer?—The Treasurer would give an imprest.

207. You would require no voucher or statement?—Nothing beyond that.

208. Those imprests have not been adjusted for years, have they?—I never looked after them. I should have thought that they should have been so by this time.

209. Then, suppose in the course of ten days more he wanted another £30,000 authority, how would he get it? Would he be asked for any satisfaction as to the previous money?—He would have to show it had been spent; I daresay he brought before me some statement I should have to sign, to certify to the correctness of it, but I cannot say without referring back to actual books. The money part was done entirely between the Treasurer and the paymaster, without reference to the Chief Commissioner at all.

financial minute, laid on the table of the Council on the 26th of November, 1854 :—

“The Lieutenant-Governor also transmits, for the information of the Council, an abstract statement of the income and expenditure, ascertained and estimated for the present year, from which it will be seen that the General Revenue, including the balance of £148,487 8s. 10d., from the year 1853, is taken at £1,797,935 4 6
The Expenditure for current purposes, at 2,152,177 7 1

Showing a deficiency of £354,242 2 7

The Unappropriated Moiety of the Territorial
Revenue £681,526 3 7
The Expenditure on Public Works 1,412,680 17 0

Showing a deficiency of £731,154 13 5

Total of both Revenues 2,479,461 8 1
Total Expenditure 3,564,858 4 1

Total Estimated Deficiency £1,085,396 16 0

Under 5 and 6 Victoria, chapter 36, one half of the territorial revenue, previous to the introduction of responsible government, was directed to be applied exclusively to the introduction of population; but the Executive Council had seized upon the whole fund, amounting to £865,829 18s. 5d., and, in direct contravention of the law, had expended it; and this had been done on their own responsibility, without consulting even the House of Legislature. The utmost dissatisfaction existed with Mr. Foster and the other members of the Executive Council. They had abused the patronage of the Government; they had multiplied public offices and filled them with incompetent men. It was openly asserted that the officers of the government jobbed in land, merchandise, and public houses; that the fountain of justice was impure; that collusive contracts were common. A deputation had waited on Mr. Foster, when administering the government, to remonstrate with him for the non-expenditure of £80,000, voted for the wharves of Melbourne; in accordance with this vote, a government officer had bought £100,000 worth of timber, and the Government had no money to lay out on wharves. The deputation suggested that the error might be at least partially remedied, and the timber resold; this was not, however, in accor-

dance with the red-tape notions of the Acting-Governor, and the result was, that the wharves continued sometime longer a disgrace to the city, and the timber lay rotting on the ground until it should be required. In several of the departments there was down right dishonesty, and in all of them there was the utmost inefficiency. Such was the legacy Mr. LaTrobe left Victoria. Those in office at this period were his friends and supporters, with the exception, perhaps, of Mr. Secretary Foster, who probably obtained his office by personal solicitation.

Sir Charles Hotham set to work like a man who feared neither risk nor toil; he discovered that he had been called to a sphere where much difficulty and trouble was inevitable if he did his duty, and we firmly believe that he resolved upon doing what was right, both to the people of the colony and to his Sovereign, and that he attempted to reform existing abuses, regardless of his ease and comfort. He had, apparently, no independent adviser, for the Executive Counsellors were mostly connected with the officials of his government,* and he naturally enough fell into many serious blunders. He has been accused by Mr. Secretary Foster of conducting a private correspondence with the officials on the gold-fields; and there is no doubt that he did so. But this was well known to Mr. Foster at the time, and, if he thought it right to continue in office after he had lost the confidence of the head of the Government, it is hardly dignified to make this a charge against the memory of the dead Governor, who is not able to defend himself.

In opening the fourth session of the Legislative Council † the want of judicious advice was too apparent in the address delivered by his Excellency; the style was poor and meagre, far beneath the public documents he has left on public business. Prominence was given to unimportant details, in which the public were not interested, but

* The author deems it right to state that he had no personal acquaintance with either Mr. LaTrobe or Sir Charles Hotham; he never had any other intercourse with either than simply attending their leveés on her Majesty's birthday; he never asked any favor of the two gentlemen, and has no personal feeling in writing this record.

† The Legislative Council at this period consisted of thirty-six elective members, nine official, and nine non-official nominees—fifty-four in all.

a strict silence was maintained on the great public questions which were agitating the public mind. It was evident, even at this period, to those who reflected upon public questions that Sir Charles Hotham was not receiving the cordial support of the officers under him, and that he must soon be in a serious dilemma, acting, as he appeared to be, upon his own unaided judgment. He would have made a very good governor had he found responsible government in operation, for he really had a warm desire to do justice to the people. He soon, however, discovered the bitter truth, that all who have been nominated to governments in colonies under the despotic administration of the Colonial office have had good cause to know but too well, that, in order to comply with the wishes of Downing street, he would in some cases have to govern in direct antagonism to the views of those over whom he was placed, and who were alone interested in the measures he was called on to carry out.

A short time after his Excellency had been enunciating the most liberal sentiments, and stating that "all power proceeded from the people," a despatch arrived from Sir George Grey in reference to the re-enactment of the "Convicts Prevention act" during the preceding session. The Minister denied the right of the colonists to pass any law interfering with the Queen's prerogative, and instructed his Excellency to release the criminals who had been imprisoned under the objectionable act. There was no subject on which the people and the Legislature were so determined as the maintaining of this law in its integrity; and Sir Charles must have had his mistake, as to his position, corrected. He had acted as an independent ruler; he must have now seen he was but the nominee of the British Cabinet. There were but few colonists who understood this subject but would have spent the last drop of blood in their veins rather than admit the right of the British Crown to let their felons loose amongst the virtuous free population, which was already cursed by too many of the refuse of society from the adjoining penal settlements. The comparatively small community of 1849 had solemnly declared that they would resist the landing of convicts even by an appeal to arms; and now that the population was quadrupled, and the people felt their strength, it was not very likely they would allow the sanctity of their family hearths to be violated. The almost simultaneous

expiration of the Convicts' Prevention act by the effluxion of time with the arrival of this ukase from the Colonial Minister excited the public mind. The crisis had come, and no compromise could be allowed; indeed, if so odious an exercise of the prerogative had been insisted upon, and the doors of the gaols had been opened for those confined under the Convicts' Prevention act, Victoria would have resisted, and the connection between the colony and Britain would perhaps have been severed.

A great public meeting was held in front of the Court House, at which resolutions were carried strongly condemning the measure, and protesting in the most solemn manner against it. The speakers were Messrs. Westgarth, Michie, Ireland, Eades, Clowes, Blair, Marsden, Owens, Kent, Mackinnon, and Newton. The meeting adopted a petition to the Legislature, praying, "That, in order to the protection of the colonists from further inundation with foreign crime, and in vindication of their own right of freedom of legislation, their Honorable House would re-enact the Convicts' Prevention act, with such additional clauses as would prevent the introduction to Victoria of the convicted criminals of other countries or colonies under any pretext whatsoever." The popular indignation was increased by the great favor shown to Sir William Denison, the adviser of this unconstitutional effort to set the felons of the mother-country loose upon Victoria, through the convenient convict colony of Van Diemen's Land; he had been raised to the rank of Governor-General of New South Wales, although notoriously unpopular in all the Australian colonies, having almost excited the free people in Van Diemen's Land to revolt. He appeared, indeed, to delight in advising the British Government to adopt measures which he must have been aware would raise the indignation of the Australian people. Perhaps he made that fatal error, so common amongst rulers surrounded by flatterers and servile placemen, and, entrenched in his potential office surrounded by a mimic army, despised the people who had only moral right on their side, and who would appear to a mere despot to be weak and disunited. Such men must have studied history with little advantage not to be cognizant of the great truth that right is more powerful than might; and had the Imperial authorities persisted in his baneful policy they would have found

this moral influence rise sternly up with a giant's strength, and, scorning all compromise, have achieved a complete victory over its miserable instruments of misgovernment. The resolute language held at the public meeting in Melbourne was re-echoed at another meeting held in Geelong; the people even pledged themselves, at the latter, to "go the length of extreme means in order to avert the threatened plague." Indeed, the Legislature of Victoria scarcely kept pace with public expectation, for the Convicts' Prevention act had expired in the month of October, and a measure of a more lenient character, introduced by the Attorney-General, had been referred to a select committee, which did not report upon it until the beginning of November. The committee then simply stated that there were so great difficulties in carrying out the government measure, and which was entitled "A bill to prevent the influx of unreformed criminals," that it could not be adopted. The great demonstration of the 23rd of October, and the now unanimously expressed resolve of the people to resist at all hazards—to throw the consideration of all that was usually held sacred aside—the honor of the Crown—the respect for the Government—the desire for ease and social tranquillity—the aversion to violent measures—and, in short, to sacrifice all other considerations, that they might maintain their character as a free people, so that the stigma might never be cast upon their offspring that their fathers had suffered such an outrage without displaying the indomitable spirit of the race from which they were descended, now encouraged the Legislative Council to adopt decisive measures. The petition from the colonists was presented by the Mayor to the Legislative Council on the 24th October, and on the 3rd November Mr. Nicholson obtained leave to bring in a bill to prevent the influx of criminals. This measure was even more stringent in its provisions than the act of the former year, and it included the class of persons objected to arriving from Britain, as well as from the neighboring colonies.

This important enactment, which may be deemed the fixed and inexorable resolve of the people of Victoria on the question at issue, passed into law on the 16th November, and the Government, wisely perceiving the unalterable determination of the colonists, did not attempt to interfere with the course of legislation on this subject.

The people were very far in advance of the Legislature in patriotic feeling, and were indignant that their representatives did not affirm by a solemn declaration the right of the colony to enact whatever laws it deemed necessary for the good of society. We need scarcely say that the law which the Council passed, and which was unparalleled in severity, was an effectual remonstrance to Downing street domination. The officials of the Government, true to their anti-popular tendencies, opposed the measure. This was not much to be regretted, as, had they condescended to support the representative members, they would have, no doubt, endeavored to soften down its best, because its most decided, features. The colony was now forbidden ground to all convicted persons, who were liable to be arrested, and either confined or sent out of the colony.

In the fourth session of the Legislative Council a bill was introduced by Captain Clarke, at that time Surveyor-General, for conferring municipal government upon country districts, with powers for levying rates for public purposes. This measure, framed after the American model, had a very beneficial effect in ameliorating the condition of the suburban towns and country districts, and is one of the best efforts at social legislation which has been made in the Victorian Parliament, and has tended more than any other act towards social and physical improvement. It is far from complete. The colony should have had a more comprehensive measure for governing municipalities and road districts, with clauses for supervision over buildings, and with more extensive sanitary powers.

Sir Charles Hotham issued a commission on the 2nd November, 1854, to inquire into the laws and usages then existing by virtue of which the waste lands of the colony were occupied, and to ascertain what alterations in such laws would be for the public advantage, and the nature and extent of all claims which had arisen, and how they were to be adjusted. We need only in this place say, that the commissioners having been selected from the two contending interests, no unanimous decision was arrived at upon any one important point.

On the 12th of September, 1844, the Hobson's Bay Railway was opened, in the presence of his Excellency and a large assemblage of the most influential persons in the colony. This was a highly

important era, and the colonists were not a little delighted at again listening to the scream and snort of the iron horse, that most faithful slave of man.

His Excellency had, moreover, the honor of inaugurating the Melbourne Gas Work, a most beneficial public institution, which has been of material service to the metropolis of Victoria. He unfortunately caught a severe cold upon this occasion, which, it was believed, laid the foundation of a malady that ultimately cut him off in the very vigor of manhood.

CHAPTER XVIII.

THE general irritation of the public mind on the diggings—The burning of Bentley's Hotel, and trial and conviction of several persons implicated—The diggers send a deputation to Sir Charles Hotham demanding their release—His Excellency refuses—The military concentrated on Ballarat—Great indignation of the diggers, who burn their licenses—The insurgents fortify themselves at the Eureka—The military, under Captain Thomas, attack and carry this stronghold—Sir Robert Nickle reaches Ballarat—His conciliatory policy towards the discontented diggers—The people of the colony generally come forward and demand a pacification—Meetings in Melbourne, Geelong, and other places—The Government obliged to adopt a conciliatory policy—The State Trials.

THE obnoxious administration of laws which were, in their general character, not only unjust and oppressive, but unconstitutional, and unfit for British subjects, led to the rebellion and a considerable amount of bloodshed at Ballarat in 1854. The dissatisfaction at the arrogance and irritability of the Camp officials had increased amongst the diggers; and discontent prevailed nearly everywhere. Their overbearing insolence was the theme of every tongue, and even the purity of their judicial decisions was questioned. Attention to the complaints of the subject should be given by all governments; and this is indispensable with public officials so situated as the Gold Commissioners, who were in the midst of an armed and excitable multitude. Those who wielded the authority were unfortunately destitute of judgment and common sense. The dictation of the officials extended to the social life and industrial avocations of the people. If they had been wise and

discreet, the arbitrary and irresponsible character of the functions they exercised would not have been paraded with so much ostentation. Unfortunately, they were blind to the public feeling, and too confident in their own omnipotence. They proceeded unchecked. The diggers were degraded in their own estimation at the tyranny exercised upon them by the Camp officials and the police. The authorities were surrounded by materials of the most inflammable character, which a solitary spark might at any moment light into a general conflagration. But they were blind to the real state of affairs. Ballaarat was at this period crowded with diggers, and the authorities were even more than ordinarily unpopular there. The first outburst of popular indignation occurred in consequence of the exposure of one of those cases of undue partiality in which the Government officials occasionally indulged. A man named Bentley, who, so far as the public were aware, had up to this period maintained a fair character, had opened an hotel on the Ballaarat diggings, and it was rumored that one of the magistrates had an interest either in the house or the business. Two men knocked, late in the evening, at this establishment, and solicited the proprietor to supply them with drink. This he refused to do, the door having been closed for the night. The men became excited, and opened a volley of abuse against the landlord and his wife. Bentley sallied forth, in company with his assistants, to bestow a severe chastisement upon the two noisy diggers. A scuffle ensued, in the course of which a blow levelled with a spade, or some other deadly weapon, at one of them named Scobie, proved fatal. The unfortunate man was found lying on the ground in front of Bentley's hotel early on the following morning, and public opinion compelled the officials at the Camp to investigate the circumstances. Bentley was apprehended and brought before the police magistrate, but, much to the astonishment of every person in the Court, he was discharged. The case being clear as day, the report which had been current, of this official being a partner in the hotel, was generally believed. It is next to impossible to state if any connexion in the business of the hotel did exist between the landlord and the police magistrate. That this was the case was openly stated, both before and after the unfortunate occurrences we are describing,

and the Government did not call their officer at the trials which afterwards took place to contradict such statements on oath. Either the Executive was culpably negligent of public opinion, or the charge could not be denied. It is not very surprising that the digging population were exasperated at the result, and, on the 20th November, a meeting of diggers was held upon the spot where the tragic event had taken place. Crowds attended this demonstration, and several energetic speeches were made, and a petition was read and adopted.

It was a most unfortunate circumstance that the meeting was held in the immediate vicinity of Bentley's house. The large concourse of persons became excited as the speakers pointed out that on the very spot where they stood, the blood of one of their "mates" had been shed, and that the fountains of justice were tainted, while there was none to avenge the poor solitary gold-digger. The cry then arose, "Secure Bentley, and deliver him over again to justice!" His house was instantly surrounded, but Bentley, who had been warned of the storm, mounted on a fleet horse and escaped from the rear. Had he not got off his life might have been in danger, from the increasing fury of the excited people. The house was burned to the ground before the multitude could be dispersed. For this outrage three men, Fletcher, McIntyre, and Weatherly, were apprehended, and tried at the Supreme Court in Melbourne, before Mr. Justice Barry. A verdict of guilty was most reluctantly brought in by the jury against Fletcher and Weatherby, but with a strong recommendation to mercy.

The jury added the following rider to the verdict: "The jury feel that they would never have had their painful duty to perform if those entrusted with the government of Ballaarat had done their duty properly." This was received by the people, in an unusually full Court, with long and vociferous cheering. So general was this excitement that the officials of the Court, with every exertion, could not for some minutes enforce silence.

Bentley had again been taken into custody, to protect him from the popular fury; perhaps, it would be more correct to say that he had sought refuge in the Government Camp. Having been brought to trial, he was found guilty of manslaughter by a jury of his countrymen.

This fact demonstrates that the diggers had room for complaint. The two trials were held in Melbourne, where the people at this time were by no means inclined to sympathise with the diggers. Indeed, it can hardly be doubted that, had the magistrates of Ballarat been true to their public trust, and discharged their duty fearlessly and honorably, no riot would have occurred at Bentley's hotel, and the general outbreak which followed would, probably, never have occurred.

The Executive Government had been vainly admonished of the elements of danger which existed on the diggings. It had been told that the people detested the officials, whose mal-administration was notorious. To prostitute power to wealth, to pervert justice from motives of interest, are crimes against society, and well calculated to arouse the indignation of British subjects, however placed; indeed, all true lovers of liberty must sympathise with the just resentment of the Ballarat diggers.

The attack upon Bentley's hotel was only the muttering of the gale; it was but the prelude to the fearful drama that was to be enacted. Irritated by the tyrannical conduct of the officials, who would not take warning, the whole of the diggers were inclined to resist. They had sufficient power to have successfully opposed any force which could be brought against them, and there is no doubt the Government was in considerable peril. The strong sentiment of loyalty, the overbearing conduct of the popular leaders, coupled with the decision of the military in the first instance, and the mild character of Sir Robert Nickle, the commanding officer, who afterwards used every exertion to tranquillise the excited diggers, prevented a general outbreak on all the gold-fields, and, it may be, the complete subversion of the Queen's power in Victoria, if not throughout the Australasian colonies. A deputation waited upon his Excellency to "demand" the release of the men who had been imprisoned for the burning of Bentley's hotel. It was composed of Messrs. Humffray, Black, and Kennedy—all representatives of the diggers. His Excellency objected to the word, "demand." He said, being the "representative of her Majesty," he could not allow the use of the term. The deputation were strictly prohibited from using any other; and, therefore, of course, no official reply was

given. The members were, however, informed that a proper memorial on behalf of the prisoners would receive every consideration. They were, therefore, under the necessity of resting contented with this answer. At the conclusion of the interview, Mr. Kennedy entreated his Excellency to allow the men to return with them, in order to prevent a riot; but he was informed that the course suggested would be destructive of the authority of the Government; and that it would be impossible to set aside the most important principle in the British Constitution—the verdict of a jury. In order to be prepared for any disturbance, the Executive began to concentrate all the forces, both military and police, at its disposal upon Ballaarat. Sir Charles Hotham was too old a campaigner not to be uneasy at the aspect of affairs, and was anxious to stem the insurrectionary movement, and restore the fallen influence of the Government. He knew that the vehement burst of passion would most probably be succeeded by the langor of depression, and that it ought to be met with spirit and decision. The ill-feeling of the people was too apparent from the various collisions which occurred between them and the several detachments of the troops in passing along the diggings thoroughfares to their quarters on the Camp. On the 29th November a party of soldiers, belonging to the 40th, who were marching along the Geelong road to Ballaarat, were assaulted by the people. They turned and charged their assailants, but soon, however, got the worst of the fray, and had to seek shelter in the Camp. The very day that this occurred witnessed a very similar scene near the Eureka. Another detachment of military was there attacked, and several of the men severely injured. On the 30th of November a great meeting took place on Ballaarat. It was attended by crowds of armed diggers; the chair was occupied by Mr. T. Hayes, and the principal speakers were Messrs. Kennedy, Humffray, Ross, Murnane, Wheatley, Black, Quinn, Vern, Brady, Lalor, Weeks, and Reynolds. Resolutions were passed denouncing the license-fee, and declaring that the people would pay so obnoxious a tax no longer, but take immediate steps to abolish it by burning all their licenses;* and that they would forthwith adjust

* The license fee had been materially reduced in the preceding session of the Legislature, but not abolished.

any disputes about their claims by arbitrators, to be mutually chosen; that a Reform League be established, and that all members of it should be protected. The meeting strongly protested against the bodies of armed men marching about the diggings, and firing upon the people under any circumstances, without the previous reading of the riot act; and declared, if such an unconstitutional practice were continued, the League now formed would not be responsible for the consequences. The Government officials, so far from being intimidated by this meeting, had detachments marching about the diggings at the time, and several skirmishes occurred; the camp was barricaded and guarded by breastworks of sand-bags, and the whole military and police were kept under arms; the roads were covered with bodies of military and police hastening to strengthen the position of the Government at the camp of Ballaarat. The diggers must indeed have anticipated, after throwing down the gauntlet and burning their licenses, that the Executive would adopt coercive measures. Sir Charles Hotham considered that it was his duty to quell the insurrection, in order to prevent those whom he regarded as a set of incendiaries from setting the colony in a conflagration. When violent counsels guided the movements of the disaffected diggers a number of the more moderate left them, and the legitimate objects of the agitation appeared to have been completely lost sight of. Nothing short of a total overthrow of the existing Government was, after this, aimed at. The Australian flag, of blue, with a white cross, was hoisted; a provisional government was formed and supplies levied in its name. An express arrived at Melbourne, on the 4th, announcing that a party of diggers were on the road to the metropolis, in order to get up an agitation on their own behalf. The Government issued circulars to the largest employers of labor, and, having communicated this startling information, requested them to communicate with their workmen in order to discover how far they sympathised with the diggers, and to ascertain, if possible, what concessions it was deemed advisable for the Government to make. On the same day a proclamation appeared, declaring the whole district around Ballaarat under martial law. That day, also, the intelligence of the engagement between the military and the diggers arrived, and all classes were alike overpowered with sorrow that the

line of demarcation between constitutional agitation and illegal resistance by physical force had been passed. But, while most people condemned the leaders in this movement for precipitating a crisis, they were very averse to the complete overthrow of their party, and to witness the sad spectacle of a military despotism crushing their fellow-colonists. A strong reactionary movement in favor of a compromise between the Government and the insurgents set in ; and it was this sympathy on their behalf, which the Executive was at a loss to understand, that prevented the authorities from treating them with the greatest severity after they had managed to suppress the revolt.

On the night of the 1st December lights were observed in the tents of the diggers ; and signals were repeatedly exchanged, and shots fired at the sentries, who were driven in. The officer in command found a large number of insurgents organising, drilling, and equipping themselves. The spies had seen their leaders telling them off in companies, and heard one of the commanders say to the people that those who had no other arms should get an iron spike placed on a pole, as "that would find the tyrants' hearts." The officer in charge issued a public notice that no light would be allowed after eight o'clock ; that no discharge of fire-arms would be tolerated upon any pretence ; and that persons disobeying these orders would be fired at. On the same day Mr. Commissioner Amos arrived at the camp at Ballaarat, with information that the diggers were occupying an intrenched camp at the Eureka, in considerable force, with the avowed intention of intercepting the troops under the Major-General, then hourly expected to arrive from Melbourne. During the whole of that day the insurgents had possession of the diggings, and were busy levying contributions on all classes, giving the orders of their 'minister of war' in payment. The officer in command prudently refrained from molesting any of their detached parties. He was unable to attack the insurgents during the day, as he could not leave a force behind to protect the Camp, and resolved upon a night surprise. Circumstances favored this bold attempt. The insurgents had not contemplated any active measures on the side of the authorities until the main body of troops and the commanding-officer had arrived. It was Sunday morning, and a very

great portion of them were away, and those who remained had dined late, and some, no doubt, had drank deep. They were surprised by the gallant commander of the Queen's troops, Captain Thomas, who resolved to sieze the favorable opportunity of delivering a most effective blow against them. The insurgents were posted in a very advantageous position, in a fortified camp, or, rather, stockade, at the Eureka. It rested on a gentle eminence, and was of considerable strength. The leaders were, however, not very deeply skilled in military engineering, for it was much too large, and was not protected by proper bastions or outworks to aid the defenders in a general assault. Under all disadvantages, the diggers would have repulsed the military had the attack not been made at a time when it was totally unexpected, and when the great body were absent. The officer upon whom the responsibility of this enterprise rested was Captain Thomas, and he planned and carried out the whole affair with creditable ability and vigor. He was assisted by Captain Pasley, R. E., who bravely advanced with the skirmishers and directed the assault. The military were fortunate in having Mr. Commissioner Amos to act as their guide; being well acquainted with the locality, he led the troops to the exact spot where the operations were to commence. The force under Captain Thomas reached the ground just as the morning began to dawn. There were present thirty men of her Majesty's force, under Lieutenants Hall and Gardyne; seventy mounted police, under Sub-Inspectors Furnell, Langley, Chomley, and Lieutenant Cossack; sixty-five men of the 12th regiment, under Captain Quendo and Lieutenant Paul; eighty-seven men of the 40th regiment, under Captain Wise and Lieutenants Bowder and Richards; twenty-four foot police, under Sub-Inspector Carter: making a total of 100 mounted and 176 foot.

When the body arrived at about three hundred yards from the entrenchments the detachments of the 12th and 40th regiments extended in skirmishing order; the mounted force moved to the left of the position and threatened the flank and rear of the insurgents. The main body now advanced boldly to the attack. We have no means of ascertaining the exact number of men in the stockade, but they could not have outnumbered the Queen's force. They stood to their arms manfully as soon as the alarm was sounded,

and when the military were at a distance of 150 yards they poured in a tolerably effective fire upon them. The commanding-officer now directed the order to fire to be sounded, and throwing in a steady fire on the camp in front, the military advanced in unbroken order, undaunted by the continuous discharge with which the insurgents received them. As the troops were likely to be severely handled, the reserves and foot police were now brought up for the struggle; a sharp fight was kept up for some time, but, in consequence of the ammunition becoming scarce amongst the insurgents, their fire slackened, and in a few minutes the military carried the entrenchment at the point of the bayonet. The engagement lasted about twenty-five minutes; the rebel leaders fought well, Mr. Peter Lalor having been wounded in the breach and left for dead in the stockade, and several others cut down at their posts. The loss to the Queen's force was considerable, including Captain Wise, who, in leading his men to the attack, was severely wounded and died in a few days afterwards; Lieutenant Paul was also severely wounded. The loss amongst the insurgents was variously estimated, but there could not have been fewer than thirty killed on the spot, and a great many wounded. There were 125 prisoners taken in the stockade. The commander-in-chief of the "forces of the Republic of Victoria," as they were styled, named Vern, a Hanoverian by birth, escaped, and a reward of £500 was offered for his apprehension. Mr. Lalor, the other leader, who fell within the stockade, lost his right arm in the engagement. On the Tuesday the troops under the command of the Major-General arrived on Ballaarat; and they were not there a minute too soon, for a large body of insurgents were in arms at Creswick. There can be no doubt, however, that the victory at the Eureka had very much raised the spirits of those who supported the Government, and in a corresponding degree dispirited all connected with the insurgents; and the officer in command unquestionably deserved credit. He exercised a wise discretion in attacking them, instead of waiting until they became the aggressors. Indeed, most of the colonists who were unfavorable to the authorities, and their system of administering the law on the diggings, were compelled to condemn this open attempt to overthrow the government. The Legislative Council, then in session, presented an address of sym-

pathy to his Excellency, which was of the following tenor: that, having been placed in a painfully embarrassing position since his arrival in the colony, he was entitled to the sympathy and support of the Legislature. Sir Charles Hotham was very far from inexperienced in affairs of state importance. He was particularly happy in his reply. The firm resolve to suppress the incipient revolution was softened by the readiness with which he offered to redress those grievances which the diggers had complained of. He said it would be his constant endeavor to conduct the Government with the utmost possible temper; he said the time for military rule had passed; but when there was an outbreak, and that caused by foreigners—men who had not been suffered to remain in their own country in consequence of the violence of their character—then Englishmen must sink all minor differences, and unite to support the authorities. The Government, however, fared rather differently when a direct appeal was made to the people. A public meeting had been called by requisition, to consider the best means for protecting the city during the crisis at the diggings. The principal agitators in this matter seemed to be the members of the Legislature, who took a large share in the proceedings of this public meeting. The resolutions proposed were received with such ill-concealed dissatisfaction, that, after the Mayor had declared two of them to be carried, the opponents of the Government interfered, and such confusion prevailed that the gentleman who presided vacated the chair, which was occupied by Dr. Embling, and a series of resolutions diametrically opposed to the proceedings of the Executive, and demanding an immediate settlement of the differences between the Government and the diggers, were carried with the utmost enthusiasm. Mr. Frencham, who has been already alluded to as one of the discoverers of gold in Victoria, spoke on behalf of the diggers, and told the people they “must go forth with their brother diggers to conquer or die.” The Government demonstration having terminated in so very unsatisfactory a manner, another meeting was convened on the following day “for the assertion of order and the protection of constitutional liberty.” It took place on a large open space of ground near St. Paul’s Church, at the corner of Flinders lane. From 4,000 to 7,000 people were present, the chair being filled by Henry

Langlands, Esq., one of the largest employers of labor in Melbourne. The speakers were Messrs. Blair, Owens, Fawcner, Fulton, Frencham, Grant, Cathie, and Embling. The resolutions condemned the whole policy of the Government, and declared that, while disapproving of the physical resistance offered by the diggers, the meeting could not, without betraying the interests of liberty, lend its aid to the Executive until the coercive measures they were attempting to introduce should be abandoned. The result of this meeting had very considerable weight with the Executive, and the same afternoon a *Government Gazette* extraordinary appeared, in which was a proclamation revoking martial law on Ballaarat.

The repulse at the stockade did not depress the diggers, and a body of about 1000 armed men was, at this time, collected together on the Creswick road. It was very fortunate that Sir Robert Nickle, who had now assumed the command, was an old and experienced officer. He immediately restrained the violence of the police and military, and held several parleys with the disaffected diggers, in which he strongly urged them to return to their duty. This exhibition of good feeling in conjunction with the resignation of the Chief Secretary, Mr. Foster, and the appointment of a commission, calmed the excitement. The magistrates were very lenient with the prisoners by order of the Executive, and only convicted in very glaring cases, and expressing no ill-feeling towards those who were in the custody of the police. Meetings were held in Geelong, Bendigo, and other places, and resolutions strongly condemning the policy of the Government towards the diggers were carried. A meeting was also held on Ballaarat, and resolutions were passed, praying the military officials to enforce the martial law with as much forbearance and humanity as the circumstances of the case would admit of. Mr. Humffray, who was the bearer of the resolutions, was arrested upon presenting himself at the Camp, but liberated after it had been discovered that he was a moral and not a physical force opponent of their measures.

On the 8th of December Mr. Foster officially announced that he had resigned the office of Colonial Secretary, and declared that the charge made against him, of abusing the patronage of the government, was quite unfounded. That day a proclamation appeared

nominating William Clarke Haines (the new Colonial Secretary), William Westgarth, John Pascoe Fawkner, John O'Shanassy, William Henry Wright, and James Ford Strachan, Esqrs., to be commissioners for inquiring into the state of the gold-fields and the grounds of the complaints, with a view to ascertain how far they were well-founded; and to devise and carry out a system which, making due provision for an adequate revenue, with the least possible expenditure of public funds, should afford every facility for the development of the mineral wealth of the colony, and prove the least harassing and vexatious to the miners; and to inquire into the manner in which the law had been administered in order to ascertain if unnecessary harshness or undue partiality had been shown; and, further, to inquire into all complaints relating either to the privileges or pecuniary interests of the mining population.

The Commissioners reached Ballaarat on the 17th December, and proceeded to collect evidence upon the multifarious subjects with which they had to deal. The terrible concomitants connected with the insurrection were now apparently concluded; it was not the Commission, nor the Legislature, that the colony was, however, indebted to at the time for exemption from the horrors of revolution, so much as the respectable mercantile and middle classes.

When Sir Charles Hotham engaged in the affair at Ballaarat he could not foresee the consequences of it, because he misunderstood the temper of the people of the colony. Perhaps it was fortunate for his Government that the insurgents were not more moderate in their views and more considerate in their measures. He had been led to believe that the spirit raised by the arbitrary conduct of his officials on the diggings reached no farther than the tents of Ballaarat and Bendigo. Those with whom he came into contact had studiously impressed upon his mind that no sympathy existed in the two principal cities with the agitation; but he was grievously disappointed. Instead of a cordial and pleasing harmony of opinion, favorable to the Government, there was a jarring dissonance; instead of pleasure at the discomfiture of the diggers, a melancholy regret, and a general fear for the ultimate result pervaded all classes, except, perhaps, the adherents of the Executive Council. The reins of Government, which had been loose, were now in danger of being

tightened, and clear-minded men feared that the bubble of revolutionary Government would do injury. If it succeeded, anarchy must ensue; if it failed, then a horrible despotism would be inevitable, and, under martial law, free men would be kept down by a relentless soldiery. The Legislature was, at this time, slavishly attached to the chariot-wheels of the Government; it was the mercantile, agricultural, and lower classes that saw the crisis in its proper light, and would not be misled by either Government or Legislature. There was only one way of settling the affair—by a reconciliation. Well was it for the diggers and the colony that the people of Melbourne and Geelong made common cause with them, while disapproving of the false step they had been induced to take.

Sir Charles Hotham having mixed but little with general society, and finding the Legislative Council submissive, formed too low an estimate of the character, attainments, and respectability of those who formed the community. His position prevented him from appreciating the feelings of the great body of the colonists; for, notwithstanding his popular professions, he was distant in his manners, and inaccessible to the public. The fact was not apparent, perhaps, to him, that at this period many persons of respectability and influence had not time or opportunity to take any share in public affairs; but he lived long enough to discover that amongst such quiet circles the wisdom and intelligence of Victoria was to be found.

If anything had been wanting to convince the Government of the real state of public feeling the result of the state trials must have sufficed for the purpose. The law officers indicted those who were taken prisoners in the stockade, and against whom they possessed sufficient evidence to ensure convictions, for high treason. The jury were citizens of Melbourne and small farmers in the adjoining country, and had no particular sympathy with the diggers. So thoroughly were they convinced of the misgovernment and misconduct which had been apparent in the management of the gold-fields, that, notwithstanding very great exertions made by the Crown lawyers, the prisoners were found not guilty. So excited were the spectators, who thronged the court, that cheers rang through the building when the verdict was returned in the case of a poor negro

who was the first of those who were brought to trial, and these shouts were taken up outside and re-echoed with great earnestness. The officers of the court attempted to suppress these demonstrations, and two unfortunate fellows were seized and punished by the Chief Justice with seven days' imprisonment for so flagrant a contempt of court, his Honor pithily remarking that the demonstration was an insult to the jury, because, if it was a conscientious verdict, they had done no more than their duty, and if it were not so, no popular applause would recompense them.

CHAPTER XIX.

THE resignation of Mr. Foster—Promise of Sir Charles Hotham to recommend that compensation be awarded—Impolitic conduct of the Governor, who alienated the minds of the conservative class—Mr. Haines appointed to succeed Mr. Foster as Colonial Secretary—Liberal measures introduced for the benefit of the gold-diggers, and tranquillity fully restored—Adverse vote in the Legislature, and reduction in the expenditure on public works—Death of Sir Robert Nickle—The opposition party entertained the idea of forwarding a requisition to the Governor-General to institute an inquiry into the state of the Government of Victoria—A Secret Commission nominated to inquire into the Financial derangements of the Colony—The New Constitution officially proclaimed—The last session of the old Council opened—The heads of departments are released by his Excellency from office, and re-appointed as Responsible Ministers—The newly-made responsible ministers narrowly escape a vote of censure.

RESPONSIBLE Government commenced in reality with the resignation of Mr. Foster. The political influence of the people was brought directly to bear on that minister, and he had to bow to this omnipotent power and retire from office. The great demonstrations in Melbourne, Geelong, and elsewhere, had opened the eyes of the Governor to the wide spread disaffection which everywhere prevailed. It is not known what means were adopted to induce the Chief Secretary to become a second Jonah, and cast himself overboard to save the vessel of the state. The people certainly regarded him as the great delinquent, but in this they acted ungenerously; the other cabinet ministers, being equally responsible, were equally blameable. Each member of a ministry is expected to recognize and defend every one of their actions as his own; and all who

sat at the board with Mr. Foster should have shared his disgrace. The people, however, only knew him as the organ of the Government; they, also, regarded him as the worst of ministers, and clamored for his disgrace. Sir Charles Hotham, no doubt, saw that the multitude must have a victim; and to fortify his Secretary in his laudable purpose he held out hope of ample compensation. His Excellency placed in his hands a document, dated 11th of December, 1854, which has been relied upon by that gentleman in the various efforts he has made to obtain compensation for the loss of office. His Excellency, in this curious state paper, acknowledges a letter from Mr. Foster, offering to resign his office if he thought his remaining in power was any impediment to the Government; and, in answer, says "he would not, under ordinary circumstances, have allowed the prejudices of the people to influence his decision; but the circumstances of this colony are peculiar; masses of men are herded together, easily excited, easily influenced by designing leaders, and suffering at the same time from diminished facility in acquiring gold." His Excellency says farther, "The hostility against the Government is very general, and I could not disguise from myself that, were I to decline accepting the resignation, the Queen's colony would be placed in jeopardy." Sir Charles Hotham concluded by hoping that the Legislature, on his recommendation, would see fit to award him compensation for the pecuniary sacrifice he was making in the cause of the colony.

In the crisis of affairs which occurred in Victoria consequent upon the mercantile, middle, and working classes adopting views totally opposite from those of the Legislature and the Executive, and while acknowledging the utmost reverence for established institutions and veneration for law and order, yet declaring their fellow-countrymen of Ballarat more sinned against than sinning, and resolving to shield them from the vengeance of a military despotism, the Governor and Executive Council were alike too glad to allow Mr. Foster thus to immolate himself to secure their safety. When they actually saw a revolution impending they were all anxious to appease the public indignation. This alone can excuse Mr. Foster for such a display of pusillanimity as fitting the cap on his own head. If no worse than the other members of the cabinet, he ought to have displayed an equal amount of moral courage, and, like them, have faced the storm.

Sir Charles Hotham sent down a message to the Legislative Council, recommending that a sum equivalent to two years' salary be placed on the estimates to compensate Mr. Foster for the loss of his office. The members had no documents before them to guide their judgment, and declined to entertain the request. His Excellency was now experiencing some of the consequences of his own impolitic conduct. He had commenced by enunciating ultra-liberal opinions; he had ended by carrying out some very arbitrary measures, and giving the Imperial authorities some unwise and illiberal advice. The crisis was not brought about solely by the indignation of the betrayed diggers; it had its source as well from the general dissatisfaction at the incompetency and faithlessness of the public officials. On the diggings this was most fatally exhibited, and nothing less than a total disorganization of society was threatened. The distemper which had been lurking and latent in the social system now became malignant. Sir Charles had unwisely excited the hopes of the digging population by his ill-timed expressions of ultra-radicalism, and had afterwards handed them over to the tender mercies of a despotic police. In any crisis such as this the property and advanced intelligence of the colony should rally round the Executive authority; but the conservative element in the state, at this time however indisposed to countenance rebellion, was bewildered at the apparently unintelligible policy of a governor who talked of liberty and exercised tyrannical power. The more experienced began to doubt his judgment and aptitude for administering the government; and, totally unacquainted with the difficulties which he had then to contend with, held aloof. He required advice, for he had no cordial sympathy or assistance from his constitutional advisers, and he had too little knowledge of the state of affairs to govern without such aid. His Excellency, however, displayed considerable discrimination in selecting a successor to Mr. Foster. Mr. Haines had been returned by the popular voice to the Legislative Council, and was an Englishman and a member of the Church of England, and, therefore, likely to be acceptable to a large portion of the community. Mr. Haines may be regarded as a minister called to power by the favor of the Governor and the good opinion of the people. The events which had passed had taught Sir Charles Hotham a useful

lesson; and, from this time to his death, he evinced a greater desire to govern the colony in a constitutional manner; and the consequence was that it continued prosperous and tranquil. Sir Charles Hotham had learned from practical experience—what he might have learned equally well from history, if he had bestowed any share of attention on that most useful study—that to administer the Government of any country in accordance with the interests and wishes of the community, is comparatively easy and simple; but no authority can long exist without the confidence of the people.

On the 13th December, 1854, the new Secretary was introduced to the Legislative Council by the Attorney-General and the Collector of Customs; in his first address he said that the Government contemplated great changes in the administration of the gold-fields, by conceding a proper representation in the Legislature, and introducing amongst the people institutions for local self-government. Like the people of Canada the colonists on the Victorian gold-fields only obtained justice after attempting to levy war on her Majesty, and set her authority at defiance. But the diggers, in this case, were saved from severe coercion by the sympathy of the people, who, thereby, convinced the Executive of the erroneous system upon which the Government had been carried out. The true method of tranquillizing the diggers was at last adopted, by granting them political privileges co-equal with the other classes of the community. The insurrection on Ballaarat had a beneficial effect upon the colony; it promoted social and political progress, and helped materially to place the relations of the Government and the people upon a proper and defined basis. We thus see good often flow from evil. The two bills for carrying into effect these necessary and conciliatory measures towards the people on the gold-fields passed the Legislative Council in May. The number of members of Council Increase bill gave Sandhurst, Castlemaine, and Ballaarat two, and the Avoca and Ovens one representative, being eight members, which gave his Excellency the privilege of nominating four. The Gold-fields Law Amendment act provided for the issue of a Miner's Right, which should give the holder power to work upon the Crown lands for one year. A Local Court was also called into existence, before which the miners were enabled to bring their

differences for adjustment. The miners could sit as members of the local Courts, and vote at their election. The Government was empowered to issue leases for auriferous land, subject to certain conditions to be framed by local boards. These important measures for extending the franchise to the diggers, and introducing self-government amongst them, had the desired effect. Tranquillity has since reigned over the gold-digging regions.

The close of the session was marked by a partial vote of censure upon the Government. Mr. Strachan moved, "That this House deems it inexpedient and impolitic in the Government introducing any new mode of taxation during the present session." A long debate occurred on the question, and it was only affirmed by a majority of one. In closing the session Sir Charles Hotham spoke very briefly, and merely alluded to the ordinary topics; in reference to the vote we have just noticed he said, "I am compelled to stop such of the public works as are not under contract, and to make further reductions in those establishments which the Council have resolved to be necessary for the performance of the public service."

The colonists were deeply grieved at the death of Major-General Sir Robert Nickle, on the 29th May, 1855. This distinguished officer had entered the army in 1798, and served throughout the Peninsular war, with great distinction. He had afterwards been in the States of America and Canada, and in the East and West Indies, and was at this time Commander-in-Chief in the Australian colonies. He had acquired some share of popularity in Victoria, from the great temper and forbearance he had exhibited towards the digging population after the insurrection at Ballaarat.

Sir Charles Hotham had become so unpopular that it was seriously in contemplation to forward a requisition to the Governor-General, in Sydney, to come and investigate the position of the Government of Victoria. The movement was not ultimately acted on; but it occasioned some sensation. The powers of the Governor-General were set forth at length in a despatch from Earl Grey, when Secretary of State for the colonies, to Sir Charles Fitzroy, dated 13th January, 1851, and published in the *Sydney Government Gazette*, in the following June. We quote the extracts which were considered to bear upon the point: "I neither desire or intend that you should exercise

practically any interference in the administration of the government of the colonies of Van Diemen's Land, South Australia, and Victoria, with respect to matters affecting only the internal interests of any of these colonies. Thé Lieutenant-Governor will continue to administer, as hitherto, the government of these colonies and to correspond directly with the Secretary of State. But her Majesty's Government has deemed it fitting that the officer administering the government of the oldest and largest of these colonies should be provided with a general authority to superintend the initiation and foster the completion of such measures as these communities may deem calculated to promote their common welfare and prosperity.

* * * * * In furtherance of these purposes the Lieutenant-Governors of the other Australian colonies will be directed to communicate with you on all points in which the measures adopted in any one colony may appear calculated to affect the interests of the others. In the event of any necessity arising for the Governor-General repairing to any of the Australian colonies he assumes the Government and retains it during the whole period of his residence; the functions of the Lieutenant-Governor being completely suspended during such time." We believe that those opposed to Sir Charles Hotham were in error, and that even his first commission appointed him to be Governor-in-Chief like the latter one, which was forwarded with the New Constitution. The agitation of the matter was far from being agreeable to the Executive. Sir Charles Hotham, who appeared to have deemed Commissions the only method of attaining correct information on questions of public interest, appointed a Committee of three to inquire into the financial condition of the colony. The instructions of his Excellency referred to the large sums under the head of imprests remaining unbalanced, the necessity of a searching inquiry into the finances of the colony, and also for devising a financial scheme suitable for the future. The gentlemen who formed this "Secret Commission" were the Auditor-General, William Hamilton Hart, and David Charters MacArthur, Esqs., and they reported on the 11th September, 1854. The Committee exposed some of the frightful effects of the imprest system; by returns they furnished it appeared that, on the 28th August, the sum

of £1,682,328 had been imprested, and no adjustment of it effected; and, deducting £372,089, the accounts not due, there was the balance of £1,310,238 unaccounted for; of this balance accounts for £8,093 had been received and passed for warrant; accounts for £157,835 were in course of examination; accounts for £182,599 had been received in the audit office; accounts for £677,964 had been received, but the authority for the expenditure was insufficient, leaving the sum of £283,745 wholly unaccounted for. Of the large sum of £1,310,288, which remains unadjusted, the Civil Commissariat, Police, and Public Works departments represent £888,250. The Committee recommended that the imprest system should be abolished, and accounts discharged after final audit only at the Treasury.

The New Constitutions, as framed by the Legislatures of the different colonies, were brought before Parliament by Lord John Russell, and passed with scarcely any remark. Mr. Lowe opposed the nominated Upper House for New South Wales, but his opposition was ineffectual. When we reflect that all the other colonies in the Southern Hemisphere, as well as the Cape, selected elective Upper Chambers, and that the Imperial Parliament passed a measure enabling Canada to alter the constitution of its Upper House from nomination by the Crown to popular election, we cannot but agree with the views of Mr. Lowe, and regret that his suggestion was not adopted. The New Constitution act was received by the *Shalimar*, which anchored in Hobson's Bay on the 16th October, 1855. It was officially proclaimed on the 23rd November by his Excellency, who had recommended a general holiday in honor of the event. The Government offices were closed, and business generally was suspended, but there were no public rejoicings. On the same day the Legislative Council was opened by his Excellency, for its last session prior to dissolution, in a speech very different from his former efforts. This document evinced very considerable ability, and a skill which is seldom met with in the State papers which emanated from Sir Charles Hotham. He congratulated the Council upon the working of the new acts for the regulation of the gold-fields, and upon his own financial reforms, and the improved aspect of public affairs generally. The new organ of the Executive received considerable credit upon this occasion; but a movement which he,

in conjunction with the other high officers of the Government, thought themselves called upon to make, in order to introduce responsible Government into the colony, lost him much of the popularity he appeared to be attaining. A wide difference of opinion existed as to the exact period when the various heads of departments should cease to be responsible to the Crown and become responsible to the popular Legislature. The officials felt themselves in a difficult position in framing the estimates; the doubtful point was this: should they regard the estimates as framed by his Excellency, and the ministry as being responsible to him for the manner in which they carried them out, as had hitherto been the case, or should they look upon the estimates of revenue and expenditure as their own, and introduce them in the approved budget fashion. The Colonial Secretary asked the Governor in what position, as to responsibility, he considered the officials to stand? and, after the subject had been duly considered, the high officials received a circular releasing them from office on "political grounds." Mr. Haines, the ex-Chief Secretary, was then sent for in the most approved form, and, having been requested by his Excellency to form a ministry, immediately appeared with the members of the Executive who had just resigned. The Council and the people concurred in thinking the members of the ministry were actuated by a desire to secure their pensions. Under the 50th clause of the New Constitution act, persons released from office on political grounds are entitled to pensions, but this clause, however, is qualified by the next clause, which provides that pensions shall be granted subject to the regulations in force in Britain, which shut out all who may not have been two years in office. The new ministers only escaped a severe vote of censure for thus prematurely assuming "responsibility" by one vote. They had, moreover, any thing but an agreeable task before them, with the great bulk of the popular members decidedly hostile to their policy, and the Governor inclined to exact compliances hardly in accordance with their vaunted responsibility.

CHAPTER XX.

THE necessity of the Ballot in all Free Countries—Its great advantage over Open Voting—The mode of operation in the Colony of Victoria—Introduced into the Electoral Act—Resignation of Ministers—State aid to religion—The discussion misunderstood in Britain—Sir Richard Bourke's Church act and its operations in the colony—Historical view of the grant in aid—The question generally considered.

COBETT is an author who exercised but little influence upon educated and refined intellects ; beyond his fine octagarian style we have never seen very much in his works likely to be useful to society. Yet, even in his political writings, there are, amidst many paradoxes and vain speculations, one or two excellent propositions. His views on vote by ballot are tolerably correct. He says that honest men might differ about the other parts of parliamentary reform, "but no one, except a real, openly-avowed rogue would be opposed to the ballot, because his motive must of necessity be his desire to preserve bribery, corruption, and perjury." Without adopting this violent and coarse language we cannot help thinking that it is only prejudice that prevents every honest man from favoring secret voting. We are convinced, with Michiavel, that great glory accrues to a prince or a people who establishes good government and a free constitution ; and no part of the machinery is more intimately connected with the independence and personal security of the great body of the people than the freedom of action necessary to the proper exercise of the franchise. The true end of all government is the welfare of the people ; and we think it will not be very difficult to show that this is promoted in various ways by the ballot. We need not look beyond the colony of Victoria to prove this. In the first phase of existence it was notorious that no contested election ever took place in Melbourne without intimidation and other equally reprehensible practices ensuing ; and those belonging to a particular faction, as the records of the Courts will prove, threatened to burn the houses of respectable persons about their ears if they exercised their privileges according to the dictates of their consciences. An election under the open voting system was, occasion-

ally, a disgraceful affair; persons were, at times, prevented from recording their votes—afraid, indeed, to exercise the franchise, in consequence of violent threats; tradesmen and shopkeepers who voted were almost certain to be injured, and it can hardly be deemed in accordance with the principles of true freedom that the exercise of a political right should entail substantial injuries. Honest tradesmen often hesitated, when contested elections were pending, between interest and conscience. We have had excellent opportunities of witnessing the operations of the ballot, and we unhesitatingly pronounce it in every way superior to open voting. Since it has been introduced into Victoria its operation has been highly beneficial, and the public peace, upon several critical occasions, has been maintained. The objection often taken, that in America and France the ballot is not secret, is not tenable in Victoria. We speak from practical experience when we assert that the ballot has answered the exact purpose intended; that it has not only prevented any other person from becoming acquainted with the nature of the votes that the electors have given, but that it has been free from any danger of unfair play. We are particular in making this assertion because Tremenhare and other recent writers on America have condemned the ballot; but those writers should have examined a little more minutely into the system, instead of censuring it without discrimination. The elections in Victoria, under the ballot, are conducted in the simplest manner.* A list of the candidates is printed at the Government printing office, or under the inspection of the Under-Colonial Secretary, or his officers. The chief-returning officers grant proper receipts for the ballot papers when they are delivered to them. They then sign them and re-deliver them to their deputies, who have to account for the exact number which actually come into their possession. The electoral roll contains the name and designation of each elector; the names are numbered from one upwards, and when the electors obtain their ballot-papers this number is entered on the back, and cannot be read during the scrutiny, each paper being laid out with the front open, and the vote taken from it. In addition to the returning officer, or his deputy, and one or more poll clerks, there are scrutineers for all the candidates, who sit at the table beside the

* The author has acted as returning officer.

regular officials, in order to keep a check upon their proceedings. The polling booth opens at nine o'clock, and the scrutineers are furnished with a copy of the electoral roll, and pen and ink; and, having satisfied themselves that the box is clear, they can see it locked up, and need not allow it to be out of their sight for a moment until the termination of the proceedings, at four o'clock. The voters come up to the returning officers and state their names and designations. At this stage any of the scrutineers can require the returning officer to put the questions to any voter. These are three in number, and prescribed by the law; they refer to the identity of the voter, to his retention of the qualifications, and to his having already voted. The scrutineers may demand that the oath against bribery may be put. If the voter has answered those questions the scrutineers, or any one of them, may direct that the returning officer make a record and obtain the signature of the voter to the whole, which has accordingly to be done in a book provided for the purpose, and after this the ballot paper is handed to the voter. The polling booths are closed at four o'clock, and the ballot-box is opened. The numbers who have voted are ascertained from the roll, as they are usually marked off as they are recorded, and the ballot papers in the box must agree with the number who have voted. The papers are laid out with their faces exposed, and the votes taken off by the returning officer, and examined and checked by the scrutineers. Occasionally disputes occur about the names scratched out, and it sometimes happens that votes have to be rejected in consequence of informality. The voter ought to scratch out the name or names of the candidates he does not wish to vote for, and, although the paper is often blotted and soiled by the unskilfulness of the penmen, it is generally easy to distinguish the score of the pen from any blot or stain, however much they may resemble one another. As soon as the votes are taken off and the poll-clerk and scrutineers have agreed upon the numbers for each candidate, the ballot-papers are sealed up and sent off to the chief-returning officer, with the poll-book open, signed by the deputy-returning officer, the poll-clerk, and the scrutineers of the candidates. The chief returning officer makes up the gross poll from the books, without opening the sealed parcels sent in by his deputies. When he has taken off the numbers he makes up all the

parcels into one, and sends it to the clerk of the Council or Assembly, who is only authorised to produce it to the order of the House to which the member is returned, or to a committee of such House duly appointed to receive it. Should the member at any such election be petitioned against, and it become necessary to institute an inquiry into any particular vote, it can be traced by the number on the ballot-paper, which, of course, corresponds with the number of the voter who used it, as it stood on the electoral roll. But no deputy-returning officer is allowed to look at the numbers, and the only papers which a returning officer can look at, even if disposed to perjure himself, are such as are taken at the booth where he personally presided. These are not sealed up, but continue in his possession until he forwards the whole of the election papers to any of the clerks of the Parliament. But it is not very likely that any man of character would violate his oath out of mere idle curiosity; and, therefore, we are fully justified in considering the necessary precaution of the number as no actual violation of its great principle of secrecy. The booth must, of course, be provided with secret compartments, containing pens, ink, and blotting paper, for the use of voters, who are not permitted to take the voting papers out of the booths; and if they are not able to read and write they can apply for assistance to the returning officers or poll-clerks, who are required to assist them.

That voting by ballot will ultimately be introduced into all the British dominions is next to certain. Those who opposed it in Victoria are now convinced that they were in error. If good men of all parties in England could be brought to see the great advantages of the secret system of voting, and how effectually it puts a stop to bribery and intimidation, they would give it their unqualified support. The ballot harmonises well with our liberal institutions, and is in accordance with the spirit and feelings of the Anglo-Saxon people. The author has been convinced since he was able to think on such subjects, that the ballot would be a very great reform, and, long before separation, he, along with several others, advocated its introduction. It may be deserving of notice that, at a crowded meeting of the colonists, held in the hall of the Mechanics' Institution, on the 22nd March, 1851, called to consider certain

matters relative to the representation of the colony after separation, the motion in favor of the ballot was proposed by Mr. Annand, and, having been supported by Messrs. M'Combie and Kerr, and opposed by Messrs. O'Shanassy, M'Farland, and Watson, was carried by an overwhelming majority. A motion, introduced into the City Council at the period of separation, to the effect that the Legislature be called upon to introduce a measure for holding the elections in the colony of Victoria by ballot was negatived by the casting-vote of the Mayor. The gentleman who held this office at this period was, singularly enough, Mr. William Nicholson; but it was to him that the colony was indebted for having introduced the ballot in elections for members of the Legislature. There is no doubt that this gentleman gave his vote on the first occasion according to his honest convictions, but that, afterwards becoming convinced of the evils of open voting, in order to repair the error he had committed, he made the resolute effort to introduce the ballot in the Electoral act to come in force after the introduction of responsible government, which was crowned with success. The opinion of the Legislature was taken by Mr. Nicholson on the 18th December, 1855. The motion which he submitted was to the effect "that, in the opinion of the House, any new Electoral act should provide for electors recording their votes by secret ballot." This resolution was not only opposed by the newly-appointed responsible Government, who, contrary to Mr. Nicholson's express desire, made it a ministerial question, but by Messrs. Mollison, Smith, Fawkner, Greeves, O'Shanassy, and O'Brien, who were opposed to the ministry. It was, notwithstanding, affirmed by thirty-three votes to twenty-five, and the cabinet had, of course, no alternative but to resign. They had made an error in consequence of their having sadly over-rated the influence of those popular members who were notoriously antagonistic to the measure. They became the victims of this misplaced confidence. The advocates of the ballot had not anticipated this, and were scarcely prepared for assuming the responsibility of forming an administration. Sir Charles Hotham adopted the constitutional course of sending for Mr. Nicholson, who, rather unwillingly, accepted the task of forming a ministry.

It is not necessary to enter into the negotiations which took place

in the course of his effort to form an administration. With some difficulty he obtained the services of gentlemen competent to carry on the various departments. But when he had organised a ministry he found that they were not likely to have that political cohesion and unanimity of sentiment which, in his opinion, were necessary to carry on the official business of the country. He, therefore, reluctantly abandoned the task, and assumed the whole responsibility of this failure. In the short explanation he made to the House he stated that, if he had desired office, he might perhaps have got a ministry together, but under the present constitution he had thought it difficult to find men capable of forming a ministry; and the difficulty was this, that persons were not politically consistent, and it was hopeless to attempt to form a ministry differing from him on almost every question." And upon a subsequent occasion he interrupted Mr. Chapman, who was proceeding to excuse the failure, and said, "It would be better not to enter on details; he alone had failed, and he was willing to take the responsibility of it."

During the pending negotiations between Mr. Nicholson and the other supporters of the ballot in the House, Sir Charles Hotham's death occurred; and Major-General Macarthur, the officer who assumed the administration of the Government, in accordance with the letters patent appointing the former to be Governor-in-chief of the colony, recalled Mr. Haines and the other members of his ministry to power. Had Sir Charles Hotham lived, there is little doubt that he would have endeavored to construct a new ministry out of such materials as were within his reach. Like Lord Melcalf, when Governor of Canada, he would have canvassed the colonists to become ministers, rather than be placed in a position which he deemed humiliating. Perhaps, under the circumstances, Major-General Macarthur adopted the wisest course which was open to him, and, at any rate, it was a step which relieved him from a considerable amount of responsibility and annoyance. In his explanatory speech to the House Mr. Haines stated that "Mr. Nicholson having had the opportunity of forming a ministry, and not being able to succeed, he thought the resolution which had been arrived at by the House, in reference to the ballot, no longer binding, and he should proceed as if it had never been passed." The House, however,

agreed to the ballot clauses proposed by Mr. Nicholson, and they were incorporated in the new Electoral act for Victoria; and so well did they answer the purpose that the adjoining colonies have adopted them. We regret that public opinion in the mother country is prejudiced against the ballot, but trust, in the course of time, that the reformers of England will adopt it, and carry it through the Legislature.

On the 14th December, Dr. Embling moved two resolutions in the Legislative Council condemning State aid to religion, and recommending his Excellency not to take action on the 53rd clause of the Constitution act until the colonists generally had had an opportunity of expressing their views in the forthcoming elections. These resolutions were negatived by a large majority. No subject, perhaps, has occasioned such an amount of ill-feeling in Victoria as State aid to religion. The importance of the general question of endowments has been recognised in Europe, and has attracted very considerable attention amongst Christian people in every quarter of the globe. The scene of conflict between the voluntaries and the adherents of established ecclesiastical institutions was transferred, for a short space, to the antipodes, where the battle raged fiercely, and the result was anxiously expected far beyond the bounds of the colony of Victoria. But the exact dispute in reference to this aid is not generally understood in Europe. The public have there heard of the abolition of State patronage and lay patronage, but we do not think that ever before have any Christian people objected to the State aiding religion. Even the Free Church of Scotland would scout such an idea. The Wesleyans do not deny that it is proper that the State should aid religion. Indeed, there are few who hold State aid to be one of the essentials of orthodoxy. The varying circumstances of different countries warrant the alteration of the mode of supporting the church. It is, perhaps, less dangerous to have the clergy supported by the State than to have them either left to starve or compelled to use the Word of God as a means of extorting unwilling contributions from the people. We do not consider the question of State aid to involve any vital principle; so far as we have been able to understand the New Testament, it is in no way contrary to its doctrines for a State to be seriously inclined, and to aid religion.

Sir Richard Bourke introduced the principle of equality in State aid to religion in affording to each denomination a grant in aid of the voluntary contributions of its adherents, and proportioned to the numbers who professed its peculiar doctrines. The clergy were in no way interfered with in consequence, for it was given to all of them as an aid to which they were entitled. Under the act 5 and 6 Victoria, c. 76, An act for the Government of New South Wales and Van Diemen's Land, the sum of £30,000 was reserved for the support of public worship; and of this sum the district of Port Phillip received its fair proportion. On the dismemberment of New South Wales by the 13 and 14 Victoria, c. 59, the sum of £6,000 was reserved for public worship, which in 1853 was increased to £30,000.* By the 18 and 19 Victoria, c. 55, which is the present existing law, the sum reserved is £50,000. For many years public opinion had been divided upon the necessity of affording any aid to religion, and at the general election for the Council and Assembly, 1856, it was regarded as the "test;" and even the importance of the land question was overlooked in the eagerness with which the friends and opponents of State aid labored to gain strength in both branches of the Legislature. Practically, it was a very small political question—the expenditure of £50,000—but in principle it appeared wide and broad, and was considered deserving of much consideration. The Government have not refused aid to any Christian sect that have applied, but there were a number of voluntary churches that could not, without a contravention of their fundamental principles, receive their fair share; and, as a matter of course, those connected with them opposed the aid with their utmost energy. The clergy and laity who formed those sects remembered with no pleasant feelings the position of English non-conformists, and were bent on having all sects placed on a footing of perfect equality—not in principle only, but also in reality; this they held could not be accomplished while aid continued to be given, inasmuch as a certain number of sects could not conscientiously receive it. The aim of those persons, therefore, was to have the aid struck off the statute-book at once.

* A motion having been brought forward, by Mr. Johnston, in the Legislature, that aid be abolished, an amendment was moved on the motion, by Mr. Rutledge, that it be increased to £30,000, which was carried by a considerable majority.

On their side was ranged a large number, who in principle adhered to the established Churches of England and Scotland; but who declared that they could not with a clear conscience receive aid from a State that supported truth and error at once; and, rather than be the recipients of the grant with the Roman Catholics, they were contented to see the aid abolished. The grant was warmly supported by all those who were enthusiastically attached to ecclesiastical establishments, and by many moderate men belonging to the Free Church, the Wesleyans, and similar denominations, who could see nothing wrong in the State aiding and supporting religion. A large number of persons who were acquainted with the position of clergymen in the country districts, while they contended that a voluntary church was more consonant with the spirit of the New Testament than an establishment, were, however, afraid that, if the aid were withdrawn, religion would die out in the interior, and the working people retrograde in knowledge and morals. There, perhaps, never was a public question in agitation in the colony that opinion has been so much and so generally divided upon, and that consequently demands from the writer on political philosophy more careful consideration.

The question may be argued in two distinct ways; either by analogy—from the experience of other countries—or, by narrowing the subject to the position and requirements of the colony. It may either be viewed as a question of abstract principle only, or as a matter in which expediency alone ought to be the sole guide. The manner in which we shall venture to deal with it may not please many inquirers, who, no doubt, would desire a dogmatic and positive expression of opinion one way or another. The subject, when divested of its apparent abstruseness, may, however, appear rather different from what some persons seem to think.

Sir Richard Bourke's Church act was promulgated in the New South Wales *Government Gazette* of 20th July, 1886, and was intitled, "A Bill to promote the building of churches and chapels, and provide for the support of ministers of religion." The plan, as enunciated in this piece of legislation, was deemed liberal, and calculated to promote the diffusion of religion throughout the bush. Dr. Lang, who, however, at the time he wrote, could hardly be

termed a voluntary, highly approved of it.* Most persons who are acquainted with the position of the clergymen of all denominations in the country districts must admit that it was absolutely requisite; and, notwithstanding the force of the argument that America has been able to maintain the ordinances of religion without any system of endowment, it is apparent, upon the authority of Dr. Chalmers, that the evangelical clergy of that country would regard the introduction of a similar system as a great boon.† Indeed, it seems clear that the Australian system of religious aid, while it assists in providing the means of support for the clergy, and the erection of places for public worship, infringes in no manner upon the "spiritual prerogatives of the church, or the ecclesiastical independence of her clergymen," and might receive the support of the American or any other body of evangelical clergymen, if reasons for its necessity were made apparent. In many of the country districts religion would be neglected without State assistance, and it narrows itself to the question: Is a State-supported clergy, or no clergy, the best order of things to exist? Can that which is good in a moral, be wrong in a religious, view? But some, who oppose the aid of public worship, have said the State gives the assistance to the Roman Catholic Church, which we hold to be idolatrous. Of course, the State must give it to so large and important a sect as the Roman Catholics, for

* Dr. Lang, in his history of New South Wales, says: "The system proposes to combine the permanence and security of a religious establishment with the life and vigor of the voluntary system; and we have no hesitation in expressing our opinion that, although the latter system will eventually be found the more excellent way in a country where the population is broken up into various denominations, as is the case in this colony, the system proposed by his Excellency is unquestionably the most favorable for planting churches in the present state of the colony, and for the rapid diffusion of Christian knowledge amongst its widely scattered population. Indeed, the system appears to have been devised with consummate wisdom as a means of extending the blessings of religious instruction in a pastoral country."

+ Dr. Chalmers stated that in conversations with American clergymen they were not opposed to state aid, but said, "If all you mean by an establishment is an organized provision for a clergy we should rejoice at it. The thing we deprecate is the authority of the civil magistrate in matters of religion." Dr. Chalmers says, "This organised provision is truly all that we contend for. It is just, in other words, a legal provision for the support of a Christian ministry; an arrangement which might truly be gone into, and which is gone into, without the slightest infringement on the spiritual prerogatives of the church or the ecclesiastical independence of her clergymen."

it is not authorised to sit down and decide the question which denomination is right and which wrong. The Government could not agree upon this, for the Executive Council often contains Episcopalians, Roman Catholics, Presbyterians, and Independents. The only principle open for it to act on, is that which it has systematically followed, to give aid to all denominations of Christians who request it as a civil right. But we now come to a much wider objection—that a State has no right to interfere with religion; this, it appears to us, really involves the whole question at issue. Ought a Government simply to confine itself to the secular concerns of the people under its care, and not interfere in any manner with their moral and religious interests? Is it to protect their physical condition, regardless of those still higher interests connected with morality and religion? Is its concern to be for this life only, or ought it to keep in the view of its citizens the world beyond the grave? We venture our opinion with some hesitation. A Christian State is bound to use every exertion for the religious, as well as the secular welfare of the people it rules. To contravene this great principle simply because the State must support error as well as truth, seems to us to refuse the right of freedom of opinion to our fellow-colonists. It is hardly possible to believe that any man of education and reflection could be an Atheist, for he would only have to open Paley's Natural Theology and read the second sentence to find the absurdity of such a belief; and thus, as even a notorious Deist has well remarked, "The argument in favor of his absurd creed is so unreasonable, that he (the Atheist) does not hold it on any other occasion; he reasons on this important matter as he would be ashamed to reason on any other;" but there are differences of opinion upon the interpretation of revelation—to narrow the matter down to that—on which we ought to admit men full liberty to differ; and it should be no bar to a Christian Government affording aid to the Christian religion, because those differences unfortunately exist. It seems that true Christian philosophy ought to teach, that all who held the tenets common to the Christian faith should be alike protected and fostered by the Christian Magistrate, who has no right to inquire whether they are of Paul or Apollos? What is there inconsistent in the British Government supporting Episcopacy in England and Presby-

tery in Scotland? or, in Prussia supporting the Protestant faith in one portion of its dominions and the Roman Catholic in another? or, in the local Governments of New South Wales and Victoria supporting all Christian sects? It has been said that those who require religion ought to pay for it. This assertion disposes in a very summary manner of the subject; but it might be used towards the administration of justice—towards public education—towards public charities. The persons who most urgently need the services of ministers of the Gospel are ignorant of their wants, and never would supply them. The State should be earnest in endeavoring to Christianise all over whose interests it is called on to preside; it should maintain the ordinances of religion amongst the people throughout the country districts. If such be not the province of Christian Magistrates, then it must be argued, that while they may support secular education, and public charities, any thing, in fact, that affects man's position in this world, they are not to take any cognizance of a higher state of existence to which man looks forward. This is so far from being a "high church," or anti-evangelical doctrine, that Drs. Chalmers and Arnold, who stand noted in their separate churches for liberality of sentiment, have strongly urged it. The following, from Dr. Arnold's "Fragment on the Church," appears very favorable to the view we have just advanced:—"An authority, then, so essentially sovereign over human life, controlling every thing, and itself subject to no earthly control, must, naturally, have a proportionate responsibility. Standing, as it were, in the place of God, it should imitate God's Government wherever the imperfections of humanity do not render such imitation impossible. It seems an uncalled for assertion to maintain that it should regard the bodies of men only—that it should limit the exercise of its power to the prevention of attacks upon persons and property—that its highest functions should be those of a minister of police." Arnold having argued that the State has to do with the higher destinies of man, comes to the argument so much harped upon here, that the State cannot support various sects without inconsistency; he says, "A State is Christian when it declares its belief in the divine origin and supreme authority of the Christian Revelation, as contained in the Scriptures. I call England, as yet, a Christian nation, although it

be neither Episcopal nor Presbyterian, but establishes the one form in England and the other in Scotland. I call Prussia a Christian nation, although it be neither Roman Catholic nor Protestant, but establishes the one form in Westphalia, the other in Brandenburg. In such cases there is no difficulty; the nation belongs to the Church of Christ—one part of it under one form, and another under another; and where the followers of these several forms are locally distinct from each other, the State may conveniently allow to each the management of their own concerns in all subordinate matters, only taking care that neither party encroaches upon or excites ill-will against the other." Whoever knows the present position of this colony, the social condition and temper of her people, and the great difficulties that exist in obtaining adequate provision for the clergy of all denominations in the sparsely settled districts, is aware that the grant in aid is in the meantime absolutely necessary; that, without it, religion would be in danger of dying out in many places; that, although the grant is very imperfectly distributed amongst the people, the greater proportion going amongst the inhabitants of the cities, yet it finds its way, in the general course of things, to the spots most destitute, through the increased resources which it places at the disposal of the various sects of Christians. The Roman Catholics, the Presbyterians, the Episcopalians, and the Wesleyans who receive the aid for their established places of worship in the cities in many cases re-distribute the grant amongst poor congregations in the recesses of the bush. If any one doubts the improved moral condition of the people through this expansion of resources, let him, carefully note these circumstances, and institute the necessary inquiries in reference to the sources from which the country clergy have been supported, particularly in places where the population is unsettled, and, if not prejudiced against establishments, he will arrive at our conclusion, that religion cannot, at the present time, safely denude itself of that small aid which the state supplies. The voluntary system is capable of performing much, but it is rather by fits and starts than by any steady and continuous effort, and in the present state of society could scarcely, we fear, be relied upon to support the whole system. When we have convinced ourselves that it can be relied upon adequately to provide for the wants of the people, we shall

then withdraw our objection to the abolition of the state aid. We look forward with much satisfaction to the probability of a period arriving when legislators may, with a safe conscience, allow the aid to be withdrawn. This will, most assuredly, not come until it is manifest that religion can be maintained in the country districts without support; it is not improbable that this time may arrive, as the grant is daily decreasing by the increase of population. We have twice the numbers that we could boast of when the act was passed, and the amount of aid has virtually decreased one half. In a few years it will be so small as scarcely to be worthy of much attention; and, practically, the voluntaries are gaining their object by preventing an increase of the sum set apart under the 53 clause for aid to religion. We hardly think it necessary to enter into the wide field for controversy which any argument of the question, upon analagous cases in America, and other countries, would open. We will be able to find writers upon America, and many other countries, who supply us with arguments both for and against the voluntary system.

CHAPTER XXI.

THE introduction of Responsible Government—The theory of popular Responsibility in Colonies considered generally—The operation of Responsible Government in Victoria—Progress of Victoria in Commerce and Agriculture—Emigration from the mother country—Death of Sir Charles Hotham.

SIR Charles Hotham commenced his career in Victoria by enunciating the ultro-democratic doctrine that all power proceeds from the people. We cannot agree with this axiom without a certain limitation; but hold rather with Massillon, that "all power comes from God, and is established for the use of man. The great would be useless on the earth if they were not surrounded by the poor; they owe their elevation to the public necessities, and so far are the people from being made for them, it is they who are made for the people." We admit that all rulers should act as if they owed their power to the free consent of their subjects. But in the social compact certain rights have been, by universal consent, accorded to the reigning power; and, whether it be a Crown or a bare Republic, such a prerogative is necessary for the good of the people and the welfare of

society. Indeed, his Excellency had not been long in office before his opinions and measures were alike viewed as tyrannical. The Governor, who had been received with the most lavish demonstrations of satisfaction; who had been regarded as the model of perfection, the most liberal of rulers; was now viewed as a narrow-minded martinet, whose proper place was the quarter deck. The people, who had overrated him, now fell into the opposite extreme, and did not give him credit for the abilities which he unquestionably possessed.

Sir Charles Hotham had, under such adverse circumstances, to discharge the very difficult duty of introducing Responsible Government into Victoria. There could hardly have been a task requiring more judgment, temper, and discriminating firmness; and, as his Excellency did not possess these in any eminent degree, it is not much to be wondered at that he succeeded but indifferently in his task. His views, as enunciated in his minute, and dispatch to the Secretary of State, were but a mere transcript of those of Lord Metcalf, who had so much difficulty in introducing Responsible Government into Canada. They were severely criticised at the time, but public writers who know the subject are aware that there is some justice in those principles which Lord Metcalf contended for. We do not deem Sir Charles Hotham an authority; but no person can lightly pass by the deliberately-formed convictions of a statesman so able and so experienced as the late Governor of Canada. The point in dispute is this: Does Responsible Government mean simply that the heads of the departments are each responsible to the legislature for their executive measures, and for the advice given to the Governor, leaving that official still an independent action as the representative of the crown, and a component part of the constitution? or, Does it mean that such heads of departments, collectively associated together as the "Ministry," the "Cabinet," the "Government," or any other name, so long as they possess the confidence of the legislature, are the Governors of the Colony; and the representative of the Crown a mere instrument in their hands, and a cipher in the constitution? Is the Governor an active or passive agent in the administration of public affairs? Does he govern or reign? The dispute had been for some time in existence in Canada before the actual collision between the Governor and his Council occurred. It eventually took place

upon the distribution of the patronage, which, of course, hinged on the issue of the general question. Lord Metcalf considered that he was not bound to surrender the whole patronage of the Crown for exclusive party purposes to the Executive Council, instead of being distributed to reward merit, to meet just claims, and promote the efficiency of the public service. He considered it would be a degradation of the office of representative of her Majesty to become a mere tool in the hands of a party. He contended that responsible Government meant that the public affairs should be administered according to the well understood wishes and interests of the people; that it should be competent for the Council to offer advice, and that the Governor should receive it with the attention due to his constitutional advisers; and that there should be a cordial co-operation and sympathy between him and them; that the Council should be responsible to the Parliament, and that when the acts of the government were such as they did not choose to be responsible for, they might resign. The result of the dispute ultimately was, that Lord Metcalf, after conducting the administration for many months without a ministry, aided by three respectable colonists as his Executive Councillors, ultimately obtained an administration and a majority in the Provincial Parliament, which remained with him during his government.

Had Sir Charles Hotham lived longer the same struggle would, probably, have ensued between him and the Council; and, there is little doubt, it will yet come. We only trust that it will not be necessary to have a political crisis; that the matter may be discussed, and the verdict of public opinion recorded, previous to the occasion arising that may call it forth. The danger is latent in our constitution, and it would be well to be prepared for it if it should occur. The great majority of the Government are taken from the Assembly; indeed, in one case, the whole of the responsible ministers held office in the lower house; thus making that branch and the Executive identical, and, under the popular reading of responsible Government, leaving no check whatever upon the democratic element in the Constitution. Let us suppose that the Governor had quarrelled on any point with his Council, and the Assembly had supported the latter—where was the representative of the Crown—and

where the union between Britain and the colony? The Constitution act provides that all offices of honor and profit—except the responsible offices—shall be at the disposal of the Governor, with the advice of the Executive Council; this is right enough, but suppose they should not agree on the disposal of a particular office, and such a contingency might be possible, then must come a quarrel and a crisis similar to what occurred in Canada; and it would be impossible to foresee the result, which, indeed, would depend very much upon the relative ability and popularity of the parties.

In Victoria there is an intermediate branch of the constitution in the upper chamber; and, being elective, it is far more likely to act independently, and to carry weight with the country, than a nominated upper house, such as Lord Metcalf had in Canada, and which was little more than the response of the ministry and ruling party in the Assembly. To maintain the proper equilibrium a fair proportion of the ministry ought to be in the Council, and every exertion made to maintain it as an independent part of the constitution, so that the whole executive and legislative power may not be monopolised by the same parties. If the constitution is overturned, and the authority of the Crown disputed, it must be by overthrowing the legitimate influence of the Council. The danger of such an occurrence will be much increased if the upper chamber should at any time set itself against the progressive improvement of the Colony. The introduction of the new constitution has given rise to the attempt to govern by party, a rather difficult matter where there are no parties. It can hardly be said to have been successful in any of the Australian Colonies and many very able politicians appear to doubt if it is suitable to their position. The questions springing out of this subject involve problems of importance in regard to the reconciliation of party-rule with safe and efficient government in countries governed by delegated authority. We admit that, for the last 170 years, the majority have ruled in Britain, and the minority criticised in opposition; but even there this system is breaking down, and it appears more than probable that, before long, there must be a marked change. The two great parties have disappeared, and nearly every member of the popular branch of the constitution is independent, and acts in accordance with his own opinions. The independent

members rule the Parliament, and the officials hold office merely on sufferance, and are unable to control the legislation of the country.

Great Britain is the only country where purely party-government has been successfully introduced. But there is a very wide difference between direct and delegated authority. The Queen is a part of the Constitution, but also identified with the interests of the nation: the very best of governments is but the representative of the absent sovereign. In Britain no great national question can arise where the interests of the Crown and the people are not identical; but in a dependency instances have often occurred, and might again happen, where they are antagonistic, or where it may at least suit the views of the popular leaders to view them as adverse. In event of a *coup d'état* what will become of the union between the colony and Britain if the popular voice succeeds; and what will become of responsible government if the popular party should fail? There is not a hair's-breadth on the one side from revolution and a contest with the mother country for supremacy; or, on the other, from the total overthrow of the whole theory of responsibility. There might not, perhaps, be much to dread in severing the union between the mother country and the colony, if it could be effected in a spirit of mutual forbearance and good-will; but to bring on a crisis, and to drift into rebellion, would be to injure our commerce, our prospects of immigration, and our finance, and receive no corresponding benefit. It would be to throw off the protection of the British Lion, which would leave us open to the attacks of any petty power. It would be to sow the seeds of civil war, and, it may be, bring on a "reign of terror." On the other hand, if the Crown should succeed in the contest the colonists must expect the prerogative to be so much strengthened that the true liberties of the people would be seriously endangered.

The question now comes, can the danger be avoided in any other way? It can, at least, be materially decreased by dividing the legislative and executive functions, and, as far as may be consistent with good government, placing them in different but not conflicting depositories.

The ministry of the British Crown has for a long time either taken the initiative in legislation, or reserved a veto upon all mea-

asures introduced into Parliament. Weak governments have sometimes 'tided' over minor difficulties by making certain lesser measures 'open questions.' The American Government, however, neither initiates nor reserves a veto. Legislation proceeds independently of them, and its course has no effect upon their political existence.

We find the government can be conducted quite as effectively by denuding the ministers of the legislative responsibility. They are only intended by the Constitution to be responsible in their executive capacity, and the present system is an invasion of the prerogative, likely to lead the people, ultimately, into a sea of difficulties and perplexities.

The governor ought to be permitted to select as his ministers the good and experienced men of all parties. The heads of the departments ought to be responsible only for their own acts to the legislature, and not for the acts of the ministry collectively. The cabinet would, consequently, be reduced to its proper place, and all matters of state policy would necessarily be discussed in the executive council, and be properly recorded. This body might *then* be increased, and made to represent the function of the privy council in England. The business of the country would be transacted, in accordance with the constitution, by the governor in council, and anything in the shape of a cabal would be put down as an usurpation of authority not recognised by the constitution. The candid reader must admit that executive responsibility and legislative responsibility are very different things. The first is positively necessary; the other is by no means requisite. The legislature might have the whole responsibility of legislation. The ministry need have no further connection with the parliament than simply to have a general acquiescence in its administrative measures. Each head of a department might or might not have a seat in the legislature; but, under any circumstances, he should only be responsible for his own department and amenable to parliamentary censure, without any implication upon the credit of the other high officers of state.

The progress of Victoria in population, and those material advantages which constitute national prosperity, was unparalleled during

the first five years of its independent existence. The city of Melbourne had been nearly rebuilt, and spacious warehouses and handsome dwellings occupied space which could previously boast little beyond mere hovels. The commercial relations of the colony had not, however, been by any means so satisfactory as could have been desired. The markets had been glutted with merchandise in consequence of the high rates which had been obtained in the first year of gold digging; prices fell, and severe losses were sustained. The progressive improvement of the colony, and the expansion of its own resources, restricted business. There were many persons engaged in supplying and distributing produce which began to be grown in the colony, and they soon found their occupation gone. Credit had been carried to an extent almost unprecedented. No merchant refused goods to any trader, and the idea of insolvent debtors had not startled them out of their false security. In 1854 the crash fell with great violence; many traders became involved, and there was wide-spread distress in the towns and on the gold-fields. The low prices of most articles of foreign production ultimately tended to the increase of the national wealth, as the great proportion of the merchandise was sent out at the risk of persons who were not connected with the colony in business. It was now made apparent that too many persons had embarked in commercial pursuits, and that a considerable portion of the trade was of a forced and unnatural kind; and that numbers of those who expected to obtain a permanent footing as merchants must be disappointed, and compelled, ultimately, to look out for more legitimate pursuits as a means of living. The banking interest had emerged into very considerable importance. There had been branches of the two great Anglo-Australian establishments in Melbourne from its very infancy; and the Bank of New South Wales had opened a branch just before the separation of Victoria from New South Wales. After the gold diggings had become a fact, the want of another bank became evident to many mercantile men, and the first local institution for banking purposes was launched into existence under the designation of the Bank of Victoria. It has been skilfully and carefully managed, and succeeded admirably, giving the public confidence in domestic associations. The Colonial Bank was commenced in 1855, and pro-

misled to be quite as successful as its predecessor. The "London Chartered," the "English, Scottish, and Australian," and the "Oriental," have all opened branches in Melbourne. The "Provident Institute" was started in 1854, and has been very successful.

A very considerable amount of attention began to be bestowed upon agriculture and stock-breeding. Several gentlemen imported "blood" of the first character from Europe. There had been two associations for the promotion of those objects for some years in existence—the "Port Phillip Farmers' Society," and the "Industrial Association." Local societies began to be formed throughout the various districts of the colony, whose operations have been most beneficial.

The gold had been obtained, in the first instance, from alluvial digging, and by individual exertions. It was found that the inexhaustible quartz-reefs were all auriferous, and machinery and capital were soon brought to bear upon them; and a far wider field was thus opened for industry in combination with capital. The banks established branches on all the principal gold-fields, and, although, the legality of some of their proceedings has been called in question, their presence has been beneficial. The merchants have contended, with justice, that it is no part of the business of banks to deal in the productions of the country; and it certainly is contrary to the generally recognised principles of what a banker's business ought legitimately to be; but the great profit induced the directors to turn a deaf ear to such representations, and to countenance the traffic.

In the early phase of Victorian colonization, the want of a continuous stream of free immigration was urgently felt. Such persons as arrived from the mother country, with very few exceptions, were agricultural laborers and tradesmen, with their families, whose passages were defrayed from the land fund of the colony. But the discovery of gold made a marked change in this respect. Vessels of the largest size crowded into Hobson's Bay, crammed with living freights, until six hundred ships lay at one period there together, many of them destitute of their crews. The sailors, at this period, usually deserted for the gold-fields. The people arrived in such numbers that no accommodation could be prepared for them, and much suffering and discomfort ensued.

Had the government of the colony been better conducted, and the Crown lands been more accessible, the greater part of those persons would have remained. But, unfortunately, the agricultural lands were not easily purchased, and labor and other appliances were unattainable, so that many who acquired fortunes departed again with their wealth to other countries. The "Family Colonization Loan Society" was, we believe, suggested in 1850, by Mrs. Chisholm, a lady who has a very considerable claim upon the Australian colonies. Its object was to promote emigration in family groups. The London Committee consisted of some of the first philanthropists of the age, and was conducted upon fixed and recognised principles. Captain Chisholm came out to Melbourne in 1851, at his own expense, and organised a local society, and formed an Immigrants' Home, which, during the first excitement of the gold diggings, was of very material service to those just entering the colony. The Captain and his lady introduced a great many industrious families into Victoria, and practically enunciated a most important fact in social progress, that whole families ought to emigrate together. If this were acted upon generally, it would produce the best results. Until it is thoroughly understood as a leading principle in colonization, much poignant mental anxiety will arise. The solitary immigrant is isolated in a new country, and, not seldom, sinks into vicious habits, which good advice and the support of relatives and friends would induce him to shun. If not corrupted by evil associations, the solitary immigrant seldom or never regards the colony as his real home. His interest leads one way, and the ties of relationship another. Many colonists are, for a series of years, in a state of the utmost indecision as to whether they shall finally settle in the country of their adoption, or return to be re-united with their family in their father-land. If the family group system were generally acted upon, the case would be quite different; for those who have their relations with them seldom think of leaving a colony. They settle in reality, and form the most useful, steady, and contented citizens. Family affection is one of the best feelings implanted in man; indeed, the colonists who are totally destitute of it are not very much to be coveted, in a social point of view.

The death of Sir Charles Hotham was sudden, and to the public,

at any rate, quite unexpected. On the morning of the 22nd December, 1855, he was seized with choleraic diarrhœa; the Colonial Surgeon, Dr. M'Crae, was in attendance, and the complaint yielded to medical treatment. His Excellency was very anxious about public affairs at this time, as Mr. Nicholson was attempting to form a ministry, and on the message from that gentleman having been delivered to him—through Dr. M'Crae—announcing that he had abandoned the attempt, a material change for the worse was observed to take place. His Excellency gradually became weaker until the 30th day of December (Sunday), when he was attacked by a shock of epilepsy, which was succeeded by other fits at intervals of about half an hour. About eleven o'clock on the forenoon of the last day of 1855, he became comatose, and expired at a quarter to one o'clock on that day.

His Excellency's demise was sudden and unexpected; indeed, the people had not heard of his illness before his death was announced. Mental anxiety and disappointment accelerated his death. He was a high-spirited officer, who had been accustomed to success, and who, had he been sent to the Crimea, as had been intended, would, most probably, have nobly distinguished himself; but who, unfortunately, misunderstood his position as Governor of Victoria. He desired to follow the example of Lord Metcalf, but he had neither his long experience nor his great abilities; like him, he treated his ministers with spirit, and determined to stand out for prerogative, but he had not his steady temper and unflinching self-reliance. His manner also was, unfortunately, stiff, formal, and distant with such public men as came into contact with him; unlike Lord Metcalf, who was gifted with so sweet a temper that he was beloved by his greatest political opponents. As he had neither sufficient experience nor ability to govern the colony, and would not submit to the mis-government which he found in operation, so he wasted his health and spirits in vain attempts to grapple with what was beyond his reach; yet, had he lived to see constitutional government fairly introduced, and been practically convinced of the worthlessness of some of his opinions, he would have made a very good governor. No one can deny to him the credit of having been thoroughly honest, and anxious to discharge all his duties with activity and zeal.

There was no intentional error which could be laid to his charge. He went down to the grave with his fame unsullied; the mistake was clearly to be laid at the door of the imperial authorities, who sent a first-rate naval officer, not to Sebastopol, where he was required, but to Victoria, where he was not wanted, and where a thoroughly-trained and experienced statesman was really urgently needed to bring into operation responsible government, and to nip incipient rebellion in the bud. The Legislative Council voted fifteen hundred pounds towards defraying the expense of his burial and erecting a monument to his memory. The funeral was attended by all the officials and public bodies belonging to the colony who were able to attend; indeed, nothing was wanting on the part of the colonists in performing the last sad rites to their deceased governor, who was regarded by not a few as a martyr in the cause of the colony.

CHAPTER XXII.

THE Pulpit and the Press—Divine Service first celebrated in Victoria, and reflections upon that event—The Wesleyan Methodists, and their zeal in disseminating Christianity in New Countries—The Rise and Progress of the different Religious Denominations.

THE pulpit and the press are the principal agents of civilization, and are alike useful and indispensable in the great work of social progress. Their spheres are distinct, yet it is difficult to separate them by any clearly defined line; some of their lineaments may be rather different, but the general outline is the same in both. Like the clergy, the priesthood of letters, and particularly that order that is attached to the periodical press, have contributed largely towards the devolution and development of whatever is good and elevated in human nature, and in imbuing social existence with noble aspirations and kindly feelings. We may lay down certain rules for their adoption, and consider their legitimate provinces to be different; yet, in its influences upon the moral nature of man, the press is scarcely subordinate to the pulpit. The majority of persons have not time to obtain any other information than

what they acquire from these sources. The topics to which the pulpit, in a peculiar manner, directs its attention affect man's spiritual happiness and his existence in a future state of being; but it often condescends to notice his social welfare,* and, in many instances, has been a powerful, nay, an almost irresistible, political agent. The press professes to treat of subjects which affect man's temporal interests, but it soars far beyond its legitimate sphere, and, not seldom, becomes, in the hands of Christian men, a powerful auxiliary to the pulpit. The force of these mighty intellectual agencies in educating and refining the human mind is, therefore, pretty nearly upon an equality.

Any work professing to sketch the early history of the colony would be incomplete without a brief account of the pulpit and periodical press; it is, therefore, our purpose to conclude this portion of the history of Victoria by recording what we deem most interesting of the rise of those institutions.

In April, 1836, before the city of Melbourne existed, the Rev. Mr. Orton, a Wesleyan Minister of Van Diemen's Land, who had accompanied Mr. Batman when that gentleman brought his family across Bass's Straits, celebrated divine service beneath the beautiful casuarina trees which adorned the crest of Batman's Hill. Those who assembled to worship upon this interesting occasion belonged to many races and countries; they were a pretty fair average from the adjoining colonies and the islands of Great Britain. Mr. Batman's Sydney blacks also attended, while not a few of the aborigines, who had been attracted by the preparations, had crowded in. The Church of England service was read, and an excellent discourse preached from the text, "Except a man be born again he cannot see the kingdom of God;" and we have heard from one who was present that the first sermon delivered by a regularly ordained clergyman on the site of the great metropolis was striking and orthodox. The first celebration of divine worship, on the site of the

* Several sermons preached by eminent modern divines have treated of the temporal interests of mankind. A discussion arose recently, in Britain, in reference to a discourse delivered before the Queen by the Rev. Dr. Lee, of Edinburgh. The best men in the Church admitted that no fault could be found with it, though it only treated of man's physical wants.

future commercial emporium of the Southern Hemisphere, the metropolis of the most favored land under the sun—a land to which, in the language of the *Times*, “gold is the least valuable gift bestowed upon it; which has a delicious and healthy climate; a soil of unsurpassing fertility; thinly-timbered, and easy of access; lakes and rivers fed by snows of lofty mountains; a long sea-board; a situation in the centre of the Australian group; combine to render this territory the most attractive on the face of the earth”—is a striking historical reminiscence. We might imagine the feelings of this missionary of the sublime religion of universal benevolence; a religion alike suitable to poor humanity, under all the varying circumstances in which it is found; welcome everywhere—whether in the splendid palace or the wretched hovel; the crowded city—with its “sins and sorrows;” or the desolate tent on the wild common or forest. There are griefs and sorrows, which only the ministrations of the religion of the Gospel can assuage and alleviate, every where over the habitable globe. It may be that the first preacher was struck at the difference between the wild scene around and the vaulted sky above, and the vast ecclesiastical palaces where so many of his fellow-laborers would, on that holy day, pour forth their fervent eloquence to crowds of ardent, longing listeners. From the beautiful green mound on which he stood—then embossed in the primeval forest—his eye would, naturally, scan the noble eucalyptus, forming, in many places, long colonades, shady and inviting. The Yarra would also attract his attention as it glittered, like a seam of silver, threading the sylvan landscape in many a winding fold; swept in many places by the branches of the mimosa, with its bright golden tassels; and, if his eye glanced to the right, it would rest on the noble expanse of water, and the liquid way towards the Heads. The preacher, as he gazed on the vast solitudes of nature, might find his soul fill with the transcendent grandeur of the material universe; yet, how different the scene must have appeared from the blue hills and yellow corn-fields of his far-off father-land. The missionary, however, ardent in the prosecution of his Master’s work, no doubt, finds his heart softened by thoughts of home and friends. The sight of the familiar ocean would be some relief from the general prospect of frowning blue ranges, and dusky forests. City there

was none; as what is now Melbourne consisted of three houses, with one or two bark huts, hardly to be distinguished in the unbroken bush that every where stretched around. No interruption from the aborigines occurred; and the service was conducted with its accustomed propriety. We have no doubt that the sermon preached by Mr. Orton was highly impressive, and that it had its due effect on such of his hearers as could understand it. But, could the preacher have seen foreshadowed before him the future, could he have contemplated the great city to rise up within a few years where the unmitigated wilderness then lay, would not his tongue have been loosed, and might he not have brought forward much that would startle—of the sins and sorrows of city life—than Mr. Orton might have done those who now inhabit it, and those countless thousands who are destined to sojourn within its walls. Dr. Guthrie could scarcely have been more eloquent in speaking of the “city, its sins and its sorrows,” than Mr. Orton might have been in prefiguring the moral degradation, the physical suffering, the mental misery of the future denizens of what then lay before him as wild bush-land. Then, fortunately, he could have shown the reverse of the picture. The high intelligence and noble generosity of the elevated and philanthropic citizens, and the happiness arising from purity and benevolence, might have cheered the good man with many a fair scene—many a bright vision. Side by side, with the crowded haunts of vice, with all their depressing associations, he might have seen the hospital—the church—the printing office—the public library—the lecture-room—and the parks, and other resorts of innocent recreation. Might not such a discourse have been delivered, full of striking illustrations and passionate appeals to the imagination and the reason. A missionary, like Mr. Orton,* would, probably, have handled such a subject well; such preachers are generally more original in their enunciations of the sublimities

* One of the early preachers in Melbourne, belonging to the Baptist body, named Mr. Saunders, would have done ample justice to such a subject. He was but a short time in the district, and removed to Sydney, and afterwards to England. He preached in the Presbyterian Church, Collins street, on one occasion, to a crowded audience, one of the most eloquent sermons that has ever been delivered in the colony. We should imagine that he was capable of having handled such a subject as we have pointed to in a masterly manner.

of their faith than such of the clergy as are settled in the more every-day world; nor is this much to be wondered at, as they look upon nature and man under new and strange aspects.

It is but justice to the Wesleyan Methodists to say, that their church seems well adapted for propagating Christianity in new countries. The witty Sydney Smith, in several of his smartest contributions to the *Edinburgh Review*, treated the Methodists as little better than fanatical lunatics; and accused them of having conspired against "common sense and rational orthodox Christianity." He particularly enlarged on the pernicious doctrine which they held, that Providence interferes in all the little actions of our lives; causing the successful man to be always regarded as a good man, and the unsuccessful man as the object of Divine vengeance. Indeed, the clever Canon of St. Paul's was hardly more severe upon the Anabaptist Missions to the East Indies than on English Methodists. He scarcely treated Brothers Ringletaub and Carey with more disdain than the successors of Whitfield and Wesley. Had he lived in the times of Spurgeonism he would, perhaps, have written something more sarcastic still, the field being extended, and the development more luxuriant. We agree with Sydney Smith that too much fanatacism is exhibited amongst some modern Methodists, but in Victoria and the Australian colonies generally this peculiarity is not so apparent, and the Methodists are quite upon a par with other sects of Evangelical dissenters. The discipline of the Wesleyans seems well suited for newly-settled countries. Its ministers do not wait for applications to be sent with certain stipulations for temporal benefits to be guaranteed them before they commence their labors. With apostolical zeal they go forth into the wild bush, and wherever they find a few huts or tents, or a few human beings together, they preach to such of them as will listen. Their machinery seems exactly fitted for such a state of things as has been recently presented in Victoria. There may be a want of classical knowledge and academical elegance amongst their clergymen, but they have zeal, and, where their perceptions are not clouded by fanaticism, great knowledge of the Scriptures.

Mr. Orton made a tour of inspection, and it was in consequence of his representations that the English Society sent out the Rev.

Messrs. Tuckfield, Hurst, and Skeavenden, in order to endeavor, if possible, to reclaim the aborigines. The Wesleyans afterwards celebrated divine service in the house of Mr. William Witton, an ironmonger, in Melbourne, who afterwards abandoned his business in order to devote himself to the ministry. A temporary chapel was next erected by Mr. John Jones Peers, a respectable builder of Melbourne, at his own expense; and the body, ultimately, obtained the corner allotment of Collins and Queen street, which had originally been bought by a Sydney gentleman.* A large and well-arranged building was here erected, and appropriated to divine service. The first settled clergyman was Mr. Hurst, who was succeeded by Mr. Schofield; and when that gentleman was removed to Paramatta, Mr. Sweetman took his place; after some years, he, again, gave way to Mr. Butters, who came across from Launceston. The clergymen enumerated were all men of great zeal, and Mr. Sweetman was a man of truly apostolic character. Those who were acquainted with his mild and amiable nature will not, we are certain, readily forget him.

The Independents appear to have been a strong body in the early days of the colony, and the Rev. Mr. Waterfield arrived in 1838 to officiate as their pastor. The service of this body was first held in the house of Mr. John Gardiner, but after Fawcner's hotel had opened it was conducted in the large room of that establishment. The chapel in Collins street was erected in 1839, and here Mr. Waterfield labored for some years with no ordinary zeal. He was then removed to Van Diemen's Land, and the pulpit was afterwards occupied by the Rev. Alexander Morison, who, next to Dr. Geoghan, is now the oldest officiating clergyman in the colony. In October, 1838, the Rev. Mr. Grills was sent to Melbourne by Dr. Broughton, Bishop of Australasia, to labor amongst the adherents of the Church of England residing there. He conducted public worship in a wooden building near the spot where the cathedral church now

* This allotment was originally purchased for a mere trifle by a person who forfeited his deposit, and the Wesleyans obtained it by paying the balance, some twenty pounds. The fine chapel which was erected there has recently been removed, and the allotment was sold by auction for thirty-five thousand pounds. This sum has been expended by the body in erecting new places of worship in the more populous districts of Melbourne.

stands. Mr. Grills obtained leave of absence to go to England in order to bring out his family, and, in the meantime, his place was occupied by the Rev. J. W. Wilson, who was soon afterwards removed to Portland Bay, where he has continued to labor as pastor. The next clergyman of the Church of England that arrived was the Rev. Adam Compton Thompson, who continued for many years in Melbourne. He may be said, indeed, to rank, with the Rev. Messrs. Forbes and Geoghan, as one of the Fathers of the Church. Mr. Thompson was an excellent clergyman and very popular amongst the poorer orders for his kindness and affability. He continued to work amongst the people until the arrival of the Bishop of Melbourne; he then removed to Van Diemen's Land, and afterwards returned to his native land. It was through his exertions mainly that the cathedral church was erected; St. Peter's Church was also built and opened during the period that he was incumbent of Melbourne. In the early period of his ministry Bishop Broughton paid the district a visit, and some complaints were made against Mr. Thompson, but the venerable Diocesan found on inquiry that they were either much aggravated or entirely groundless, and he continued the reverend gentleman in his charge, much to the gratification of the great body of the people. Some, however, were dissatisfied, and, there being no other English church in Melbourne at the period, joined other denominations. The first clergyman of the Presbyterian Church that settled in Port Phillip was the Rev. James Clow, formerly a chaplain in the East India Company's service, who, having retired on a pension, had selected Australia as his future home. This venerable father performed divine service until the arrival of the Rev. James Forbes, in January, 1839. The body at that period numbered about 250, and in the end of that year they erected the present Scots' schoolhouse, which they also used as a place of worship on Sundays. In 1841 the first Scots' church, in Collins street, was erected and opened for public worship. In the previous year the Rev. Mr. Love, who had arrived from Scotland, settled in Geelong. In 1842 three clergymen, Messrs. Gunn, Mowbray, and Laurie, arrived, and were settled; the former gentleman is still at Campbellfield near Melbourne. Mr. Forbes was a gentleman remarkable for his zeal, and he labored amongst

his people until the disruption in Scotland. When he abandoned his temporal advantages and went out of the establishment he preached for some time in the hall of the Mechanics' Institution. He was soon in possession of another church, in Swanston street, which was erected for him by those who adhered to his ministry. It was to his exertions that the Presbyterians were indebted for the Scots' church in Collins street, and John Knox's Free church. He was cut off at the early age of 38 by bronchitis; no pastor could have been more generally regretted. He was not very popular in the pulpit, for his physical infirmities prevented him from being an effective public speaker, but he possessed a masculine mind, and was deeply read in classical and theological literature. He was succeeded by the Rev. Mr. Hetherington in the Scots' church, and by the Rev. Mr. Miller in John Knox's, both of whom are universally respected by the Presbyterian denomination.

The Rev. P. B. Geoghan, D. D., arrived in Melbourne in the month of May, 1839, and in a few months he received an assistant in the person of the Rev. Mr. Walsh. The former gentleman is one of the most popular of the early clergymen; it was indeed pleasing to witness the harmony that existed amongst all sects of professing Christians in these primitive days, and the only desire which seemed to animate these reverend gentlemen was to excel in works of love and charity. The Roman Catholic body, having obtained a grant of the land on which their cathedral now stands at the corner of Elizabeth and Lonsdale streets, were able to erect a temporary place of worship, which was opened in the ensuing July. Those forming the congregation at this period were poor, and unable to do much towards the support of their church; but Dr. Geoghan made an earnest and powerful appeal to the Protestants for help, and it may be inferred that this was not withheld, from a resolution which was passed at a meeting held in September, "That the thanks of the body were gratefully offered to the esteemed individuals of other persuasions who had so generously aided them in erecting a place of worship, and those present pledged themselves to maintain, to the utmost of their power, the liberal Christian spirit which at present distinguishes the Port Phillip district." In the year 1846 the Rev. James Alipius Goold was created first Roman

Catholic Bishop of Melbourne, and Dr. Geoghan became the Vicar-General, and still continues to labor in the colony.

In 1841 the first regularly ordained Baptist clergyman arrived in the colony, in the person of the Rev. John Ham, who had formerly been settled in Birmingham. In the first part of his ministry he occupied the hall of the Mechanics' Institution, but the body who adhered to him were soon able to erect a place of their own in Collins street. Mr. Ham was in very delicate health; but he was, however, very much esteemed by his congregation, and kept these belonging to it, during his life-time, in one united body. There were several other Baptist clergymen settled soon after this period in Melbourne; in particular we may mention the Rev. Mr. Turner, who celebrated divine worship in a building at the corner of Stephen and Lonsdale streets, and the Rev. Mr. Mouritz, in Collingwood.

The United Secession (now the United Presbyterian) Church had no representative in the colony until the arrival of Rev. Mr. Ramsay in 1846. He preached for some time in the original Scots' Church, which, at this period, was vacant, in consequence of the Rev. James Forbes having abandoned the temporal advantages he held as a minister of the Established Church, in order to join the Free Church. On the arrival of the Rev. Mr. Hetherington from Maitland, where he had had charge of a congregation, to occupy the pulpit of the Scots' Church, the adherents of the Rev. Mr. Ramsay erected a place of worship on the opposite side of Collins street, which he has since occupied.

The Jews of Melbourne have been, from the commencement of the colony, a very respectable body; indeed, there are amongst them some leading merchants and shopkeepers. In 1845 they erected a very neat Synagogue in Bourke Street, and obtained the services of Mr. Rintal, a gentleman well known, and, as a citizen, much respected by the Christian inhabitants of Melbourne, as reader. The Jews have, from the first, conducted their worship with the utmost propriety, and support their church by voluntary contributions only. It is due to them to state, that they are generally esteemed by the Christian citizens, and they have never been backward in supporting public charities.

It would be tedious to give a history of all the clergymen who

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have been laboring in this colony. We have merely noticed those who may be said to have founded the various Christian churches. It has already been stated,* that Bishop Perry arrived in January, 1848; since then he has continued most active and earnest in promoting, by every legitimate means, the best interests of his church. The Presbyterian Churches were, also, very fortunate in obtaining the services of the Rev. Dr. Cairns, a gentleman of established reputation, who was induced by the wide sphere of usefulness presented by Victoria to remove from Scotland, and cast in his lot with those who adhered to the Presbytery in the new world. Dr. Cairns arrived about the time that the gold excitement was at its meridian, when the presence of so able a man could not but be of very material benefit, and, no doubt, his labors have been crowned with success. The various denominations progressed. Melbourne was well cared for; but, for a long time the Wesleyan body, alone, made much apparent progress throughout the interior of the country. At the separation of the district of Port Phillip from New South Wales, and its erection into the independent colony of Victoria; there were 89 ministers in a population of 77,345 persons, of whom 58,700 were Protestants, 18,000 Roman Catholics, and 600 Jews and other sects not Christian. Those ministers were very unequally divided; as Melbourne, with a population of 23,000, had 41 clergymen—or, very nearly one-half of the whole number—while there were important districts in which no minister of religion ever visited. In the year 1854 there were 140 ministers of religion, as well as 150 lay agents, belonging to the Wesleyan body, and 57 to the Primitive Methodists; and many of these agents were local preachers. The Church of England had, moreover, 22 lay agents, or scripture readers. There were, at the same period, 65 permanent churches, and 134 temporary places of worship belonging to Protestant sects; and 18 churches belonging to Roman Catholics.

* Page 126.

CHAPTER XXIII.

THE Press of Victoria—The great influence and responsibility of the Newspaper press—The first Newspaper issued in manuscript—The Printing Press introduced and the broad sheet fairly launched—The history of the various Newspapers and Magazines—The early publications of the Colony.

THE newspaper press commenced in Victoria in the humblest possible form, and gradually advanced to its present influential position in the community. The tone of the press has continued to keep pace with the advancing intelligence of the community. The diminutive manuscript sheet issued when Melbourne was merely a small collection of bark huts was a fair reflex of the public opinion of that day ; but immigration set in to the settlement, and numbers of all classes settled in Melbourne who required periodicals edited by polished and educated gentlemen. The newspaper press constitutes nearly the only literature published in the Australian colonies. It monopolizes the greater part of the thought. The newspapers occupy the space of all literature, and stop the channels of information from all other sources ; by far the largest class derive no information from any other quarter. In the words of Lamartine, " Their book is written day by day, hour by hour, page by page." All the most important controversies involving the interests of the human race are conducted in the journals. There are some public men who affect a disdain for journalism, but this only displays their blindness to what is passing around them. If we do not exactly go the whole length with Lamartine, " that before this century shall have run out, journalism will be the whole press," we believe that the sphere of its usefulness will be enlarged, that it will be written up to the requirements of advancing civilization, and that it will be the leader of public opinion, and not its servile follower. To admit that our press may be charged with many faults is but to allow that, like all human institutions, it is not perfect. It has been unfair in its criticisms and vindictive in its attacks ; it has prostituted

its influence to gratify personal spleen, or for the purposes of faction ; its assistance has been given for money : as Shelly has said, —

“ All things are bought and sold ;
The very air of Heaven is venal.”

But those who have purchased its aid have by that act honored and acknowledged its power. There is a corrective element connected with the institution that tends to neutralize the effect of its deviations from moral rectitude. The force of public opinion is alone nearly sufficient to punish the vices and errors of public journals. How often have periodicals, which were great and powerful when independent, become paralyzed when turned into the mere instruments of a particular party or a particular government, and, from being the objects of general respect, have come to be scorned as the mere party tools.

Our newspapers have not been untainted with glaring defects ; but those who have bought have been worse than those who sold the poisoned draught. In the early days of the colony any journalist who received the support of one of the factions had to abandon the whole control of his paper to its leaders, and to be careful not to admit any extract which, in any way, was contrary to their views. This fact will be sufficient to show the hostile influences which were brought to bear upon anything like independent journalism in the very early times, and will, in some degree, account for the morbid rancor and vindictive personalities which were in so many cases exhibited. The party bias which marked its tone was a worse feature in its character than the impracticable suggestions, boisterous declamations, and exaggerated indignation, which it indulged in. The writers thought too little of the moral responsibility of their position. They wrote against men, not measures ; and instead of discussing political questions in a moderate and impartial spirit, they praised or attacked persons, not for their conduct, but because they happened to be in their favor, or the contrary. Any individual who offended a newspaper writer ran the risk, if he were in any way in public life, of being ridiculed or abused, not because he had deserved to be so, but because the vindictive spirit of the writer vented itself in this manner. On the contrary, his personal friends and political supporters were con-

stantly puffed and praised, either directly or by inuendo. The editors were, moreover, prone to attack each other, and in this too much latitude was permitted, as the public appeared to care little or nothing about editorial squabbles.

But, notwithstanding those minor blemishes, the journals combined their whole strength upon such questions as really were of vital importance to the country, and the benefits they conferred cannot be overrated. Their necessities often forced them to condescend to court factions which they did not approve, but their good sense and general desire to benefit their adopted country broke forth upon all important occasions; and gradually, as population increased and intelligence extended, the small factions became submerged, and a healthy public opinion was formed. The public journalist then escaped the degrading trammels of party, and all that the people appeared to look for was a general acquiescence in their views. We regret, however, to perceive returning symptoms of the factious feeling. We fear, when the excitement of the gold discoveries has worn away, that the desire for supremacy will be revived amongst the different parties, and that the newspapers may be enlisted in their behalf. Such a degradation would be deplorable. The press has attained an independent position, and ought to hold its ground. We hope that Victoria will boast an intellectually and progressive people; and that journalists will lead the van, not straggle in the rear; that they will continue to rise in character with the advancing civilization of the people. Let the press vindicate justice, truth, and national honor, and its conductors maintain their independence, and the institution will merit the respect and good-will of the people.

We shall briefly notice the periodical publications which have appeared in the colony; and shall be very careful not to fall into any of the errors we have just been deprecating. Indeed, this is scarcely likely to occur, as we have the kindest feeling towards all those who have been members of the great "priesthood of letters." We are of opinion that no part of our brief but eventful history is better deserving of being chronicled than that which we have now in hand. The influence of the journalist is not to be estimated by the social position he holds; and the writers for the press have often shaped

the public movements of the colony. All great political questions commence and end in the periodical press; it is like the ocean or atmosphere of thought, everywhere surrounding us. Without its aid any question would languish and die.

The first attempt at newspaper literature was made on the 1st January, 1838, by Mr. John P. Fawcner. It was but an humble effort, consisting only of a sheet of foolscap, in manuscript. The contents were a short leading article, a few items of shipping and local news, and a respectable quantity of advertisements. The number issued was thirty-two, and the sheet was continued for nine weeks. The proprietor had, by that time, procured a small quantity of printing materials from Van Diemen's Land, and managed, on the 15th March, to publish his sheet in letter-press. It was named the *Melbourne Advertiser*, and was, at first, no larger than the manuscript sheet. The first printed newspaper contained a leader from the pen, apparently, of the proprietor, Mr. Fawcner, headed, "We aim to lead, not drive," and the usual miscellaneous contents of a colonial newspaper. There was but little to boast of so far as the typographical arrangements were concerned; the editor, however, excused this in his leader; he said, he was "under the necessity of trusting his first number in print to a Van Demonian youth of eighteen, and this lad only worked at his business about a year, from his tenth to his eleventh year—1830 to 1831. Next, the honest printer from whom the type was bought, has swept all his old waste letter and called it type, and we, at present, labor under many wants." But an obstacle which proved more serious than the unskilful printer, and the bad material, intervened in the law. The arbitrary act introduced by Governor Darling was then in force, and, as Mr. Fawcner had not complied with its requirements, the police magistrate interfered, and the publication was suppressed, much to the annoyance of the proprietor and the disappointment of the people. Immediately after this, and before the necessary forms could be carried through to enable the *Advertiser* to be re-published, the *Port Phillip Gazette* was issued, and was the first newspaper printed under the sanction of the law. A dispute existed for a long time between the proprietors in reference to which was the oldest newspaper; the *Gazette* grounding its claim upon the fact, that the *Advertiser*

was, at first; an illegitimate publication. Mr. George Arden was the editor of the *Gazette*, and, at this period, a young man of considerable promise; he possessed natural abilities of a high order, and was a very tolerable writer and speaker. Mr. Arden's affairs became involved in 1842, and, unfortunately, he was, about the same time, incarcerated in the Melbourne gaol for a libel upon the Resident Judge. His newspaper was sold, and, after hanging about Sydney and Melbourne, he visited Europe. He, however, returned again to Melbourne, but never regained his former position, in consequence of his peculiar temper; he contributed to various newspapers, but his habits were a bar to his obtaining permanent employment, and ultimately he went to the gold diggings; here his end was very distressing. He was found dead in a ditch one morning, into which he had, no doubt, fallen, in a state of intoxication. The old colonists were, generally, sorry that he brought his career to so melancholy a termination; and he undoubtedly conferred some benefit upon the colony by his literary exertions. During the time that the *Gazette* was in the hands of Mr. Arden's trustees, it was edited by Dr. Greeves; this gentleman was afterwards editor of the *Herald* for a considerable period. In the beginning of 1843 the editorial management of the *Gazette* was undertaken by the author of this history, who conducted it until 1851, the long period of eight years. At the time that separation was attained he disposed of it to Mr. Boursiquot, who then transferred it and the *Daily News* (the representative of the original *Advertiser*) to the proprietors of the *Argus*.

We now return to the *Advertiser*, which was re-issued by Mr. Fawcner immediately after the necessary recognizances had been entered into at Sydney. It then appeared under the name of *The Port Phillip Patriot and Melbourne Advertiser*. It was edited for some time by Mr. John Pridham Smith, an attorney, for many years resident in Melbourne. In 1841 the editorial direction was assumed by Mr. William Kerr, who was afterwards elected to the Town Council, and became one of the Aldermen of Melbourne; he was editor until 1845, when he retired, and his place was occupied by Mr. Fawcner, assisted by Mr. James M'Eachern, who had been editor of the *Sydney Free Press*, and who before and since has occupied various responsible situations both on the Australian and Califor-

nian press. It was immediately afterwards purchased by Mr. Boursiquot, who joined it to the *Standard*, and, as has been already stated, formed the two into the *Daily News*.

The *Melbourne Herald* was commenced in 1839, by Mr. George Cavenagh, who had just arrived from Sydney with the necessary material; he was accompanied by Mr. Kerr, who was editor of the journal until he withdrew to undertake the management of the *Patriot*. The editorial duties were afterwards performed by Mr. Osborne, a clergyman of the Unitarian denomination, who was next editor of the *Melbourne Times*, and then proprietor of the *Belfast Gazette*, a small journal issued at Port Fairy. The *Herald* was under the management of Mr. Cavenagh for many years, and he did not sell it until after the gold discoveries. It was purchased by several legal gentlemen, and was for several years edited by Mr. F. Sinnett. It next fell into the hands of Mr. Franklyn, and was edited for some time by Dr. Evans, a gentleman favorably known as one of the founders of New Zealand, and as a writer for the press.

The *Free Press* was a weekly paper, commenced in 1841, by Mr. Shanley, and published for a few months. The *Times* was commenced in 1842, by Mr. Ryland John Howard, and was discontinued in 1844. The *Courier* was started in 1845, by Mr. Kerr, after his connection with the *Patriot* had ceased, and was published for a few months. The *Albion* was published in 1847, by Mr. Samuel Goode, and discontinued after it had been about a year in existence. The *Standard* was commenced in 1845, by Mr. Boursiquot, and amalgamated with the *Patriot*.

The *Argus* was commenced in 1846, under rather peculiar circumstances. A number of the friends of Mr. Kerr, when he had failed with the *Courier*, opened a subscription list and raised money enough to buy material and start him in business. The most active person in the affair was Mr. Robert Porter, at that time a merchant in Melbourne, who was Treasurer to the Committee, and who collected the money, and it was at his suggestion that the paper was named the *Argus*. Mr. Kerr obtained a fair share of favor, and would, no doubt, have supported himself very comfortably, had he not unfortunately become mixed up with some Town Council disputes, and, having quarrelled with Mr. Henry Moor, the Mayor of Mel-

bourne, published a libel upon that gentleman, for which he was cast in heavy damages. These the public subscribed, and all might have gone right had not Mr. Kerr, in an evil hour, repeated the libel; and, legal proceedings having been again commenced, damages were awarded to Mr. Moor to the extent of £500. The public would not again stand between Mr. Kerr and ruin, and, after a considerable amount of litigation, he lost the paper. The new proprietors of the *Argus* were Messrs. Wilson and Johnston; they were supported by men of capital, and, in the labor crisis of 1851, they bought up one or two other newspapers, and materially added to the reputation of their journal. Its circulation was very great in the years 1852 and 1853; indeed, it was said to be nearly equal to the *London Times*. We must not, perhaps, take this as exactly correct, but the circulation was, no doubt, very large. The price charged was unprecedentedly low in the colonies, being only three-pence a copy, hardly the price of the paper on which it was printed.

The *Age* was commenced in 1854. The first proprietors were Messrs. John and Henry Cooke, who had previously been merchants and stock-owners. Those gentlemen embarked a considerable sum of money in the speculation, but abandoned it before it became remunerative. The plant and copy-right then fell into the hands of those employed in their establishment. The paper was carried on by them upon the associated principle; the workmen, editors, and others, were shareholders, and contributed their labor to it. The principle was attempted to be carried out by *La Presse*, in Paris, when "equality and fraternity" were in the ascendant, and failed. It was not likely to succeed in Victoria at a period when men were so greedy of immediate returns for their labor. A dispute arose, and the society was broken up. The paper was then sold to the editor, Mr. Ebenezer Syme, and appeared in a very much improved form. The *Age* has been conducted with considerable spirit. It has been accused of descending to personalities, but we have never read anything in its columns which might not have been extracted from the *London Times*, the model journal of Europe. The editor speaks plain and to the point; he has, apparently, resolved

"To call a needle but a needle,
And acts of fools but folly;"

RR

and he deserves credit for his candor. The *Age*, alone, started as a daily newspaper; the others were all, originally, published only twice a week. The first daily newspaper in the colony was the *Patriot*, afterwards the *Daily News*, which commenced in 1845 to publish every morning. The *Herald*, the *Argus*, and the *Gazette*, all gradually followed; and, at the period of separation, Melbourne boasted of four daily journals. The population of the whole colony was, at this time, little more than 70,000.

In 1848 Mr. Colin Campbell started a weekly newspaper, named the *Observer*, which was the advocate of the pastoral interests. It also afforded a moderate support to the government of that day. This journal was edited with very considerable ability, and displayed a moderation and taste which the public appreciated. As it was more a literary than a commercial undertaking, the editor was under the necessity of abandoning journalism after the *Observer* had existed for a year, and it was relinquished.

A weekly paper, named the *Despatch*, appeared in 1850, for a short period, and was a very tolerable production. The Presbyterians started a newspaper in 1853, named the *Banner*. It was edited by Dr. Aldcorn, and contained much bold and original matter from the pens of Dr. Cairns and the other clergymen of the Free Church of Scotland. It did not receive any great amount of commercial support; and expired in about a year. The *Reformer* was started in 1853; it was a weekly paper under the direction of Mr. William Campbell, and advocated liberal measures. The *Temperance Advocate* was started in 1850; it was first edited by Mr. Graham Findlayson, and afterwards fell into the hands of Mr. Campbell. It was well conducted, and did the cause of temperance essential service. The *Express* was started in 1853, by Messrs. Warner and Perry; it was a weekly journal of considerable ability, but did not last above the year. We believe there is scarcely an instance in Australia of any weekly journal, disconnected with other journals, keeping the field for any length of time against daily or semi-weekly papers; the reason is, the want of aid from the advertising community. A newspaper office must be supported with money, or it will, necessarily, cease to exist. It would appear that advertisers do not care very much for weekly journals; and that the conductors of such

publications cannot obtain sufficient encouragement in mere readers. However ably they have been conducted, they have all failed, both in Melbourne and Sydney. A marked exception, however, is the *Melbourne Punch*, a publication in every way worthy of its witty progenitor in Fleet street. It is very creditable to the art and literature of Victoria, and has not been more successful than it deserves. Of the other weekly newspapers in existence, not one had seen the light at the period where our history for the present terminates. The country newspapers of Victoria are now so numerous that it would be next to impossible for us to give even an epitome of their rise and progress. Ballarat, Geelong, and Sandhurst, have each two daily newspapers; and the other important towns throughout the colony have each their weekly or semi-weekly journals. The *Advertiser* was established in Geelong in 1841, and ranks next to the *Melbourne Morning Herald*, the oldest newspaper in Victoria. It was started with some of the material which was used in printing the first newspaper issued in Melbourne; and was, originally, the property of Mr. Fawkner. It fell, however, into the hands of the editor and printer, Mr. James Harrison, who conducted it for a long series of years, and it still, we believe, is in the hands of this gentleman's relations. In 1842 two newspapers were commenced in Portland Bay; one named the *Mercury*, the other the *Guardian*. The former was the property of Messrs. Kerr and Thompson, of Melbourne, and had but a very brief existence; the other was commenced by Mr. Thomas Wilkinson, a preacher attached to the Wesleyan Methodist body, and who was returned to the Legislative Council as the first representative of Portland. The *Guardian* still continues to flourish, and ranks next in age to the *Geelong Advertiser*. The *Mount Alexander Mail* was, we believe, the first newspaper issued on the gold-fields. The newspapers which now exist on all the townships on the diggings are ably and respectably conducted.

Monthly periodicals have not been altogether neglected, but they have occupied a very insignificant place in comparison with the newspapers. The first effort was made in January, 1843, when the *Port Phillip Magazine* appeared, published by William Kerr, junr., and edited by Dr. Wilmot, for many years a physician in Victoria, and Coroner of the city of Melbourne. It contained 48 pages of

letter-press, with two engravings, one of "Williamstown, from the Beach," and the other, "The Velella Scaphidia," with a description from the pen of "G. A. G."—George Alexander Gilbert—an artist of considerable repute, and secretary to the Mechanics' Institution. Dr. Wilnot devoted a considerable share of his time to literary pursuits, and the first magazine attempted in the settlement will bear a favorable comparison with any of its successors. The contents of No. 1 are: an address, in which the editor sets forth his claims for public support in a very sensible way; he says, "we should not so far have ventured did we not feel assured of the existence of much talent, and a great desire for propagating intellectual requirements in the bush, excluded at once from the advantages of intellectual conferences and pursuits; to such we freely open our pages; and, while we should sacrifice much for the maintenance of the character of the work, we cannot be supposed to forego all claims upon the more substantial reality of life, by a just pecuniary remuneration; nor shall we conceive our moral and intellectual pretensions as immaculate; and, while we count upon a full share of public patronage, we do not claim it beyond our merits." There is a long and very ambitiously written article on colonization, from which we give the following extract as a specimen: "The reflecting mind, before it proceeds to action, will hold a cautious balance, in which the total amount of present good and evil will be thrown into one scale, whilst the probable amount of both to be collected and estimated by those faculties of the mind, from which the senses are altogether detached, will be placed within the other." But, notwithstanding this very unpromising opening, the article is a good one, and contains many excellent observations on practical colonization. There is an eloquent address on "The union of the intellectual with the business habits," delivered before the Belfast Rhetorical Society. Then comes "The Longa of Seville," by the Hon. Dundas Murray, inserted by special permission. The author was, at this period, a resident in Victoria, but the paper had originally appeared in one of the Edinburgh periodicals. The tale is cut off just at the most interesting part, and the editor says in a foot-note, "We regret that want of space compels us to curtail this interesting article of its highly talented proportions." The succeeding paper is the descrip-

tion of the "Velella Scaphida," already noticed; and there is also a good article on "The Landing," which portrays the feelings of an intelligent immigrant on being set down at the usual landing-place on "the beach." The monetary depression of the year gives "P" an opportunity to enter elaborately into the commercial prospects of Port Phillip; and close on this comes "Remarks and Observations on the Habits and Customs of the Aborigines," by far the most valuable paper in the first number, or in the whole work. There are two pieces of tolerable poetry, and the beautiful gem, "Autumn," a dirge from Shelly, is extracted. The number concludes with a review of "Wade's Journey in New Zealand." A "shipping list" for the month is added, with a "bonded table," and several sheets of advertisements.

The publication did not receive an adequate amount of support, and, after an existence of six months, it was relinquished. There was no farther effort at magazine literature until 1848, when the *Australia Felix Magazine* was commenced. It was printed in Geelong, and was edited by Mr. Colin Campbell. It was, upon the whole, a well-conducted periodical, and had a fair circulation. It did not, however, appear for a longer period than six or nine months.

The monthly which probably had the widest circulation, and continued to issue for the longest period, was *Ham's Illustrated Magazine*. It was published by Ham Brothers, of Melbourne, and each number contained seventy pages of letter-press, besides several illustrations. It attained no little notoriety from a severe attack upon the newspaper press of the colony which appeared in its pages. This article was ascribed to Mr. Justice A'Beckett, and, although attempted to be denied at the time, there is no doubt that he did write it, as we are acquainted with the printer who took the proofs for correction to his honor's residence, and gave them into his own hand. The article was written with some power, but it displayed a vindictiveness unworthy of a man of Mr. A'Beckett's reputation. There is also another question which might fairly arise. Is it right for any one occupying the position of sole judge to enter the political arena and slash right and left amongst his political opponents?

The next periodical was printed in Geelong, but published by

John Pullar, Melbourne, and edited by Mr. Wathen. It was a quarterly reprint of articles selected from the leading periodicals of the United Kingdom, with original contributions on subjects of colonial interest. The first number was issued on the 1st October, 1850, and was about the size of a home magazine. The articles were carefully selected, and the original contributions were above mediocrity.

The first number of the *Australian Gold Diggers' Monthly Magazine*, and *Colonial Family Visitor*, conducted by James Bonwick, appeared in October, 1852, published by Mr. Connebee, Melbourne. This small work was intended for the use of the diggers, but it only came out for a very brief period. The *Melbourne Monthly Magazine* was commenced in May, 1855, and appeared for about a year. It was, in appearance and management, something like *Blackwood*, and it occasionally boasted well-written contributions. We do not recollect the name of the publisher, and the work merely says, "Published at the office, 19 Little Collins street."

The last literary work of this character was *The Illustrated Journal of Australasia*, which was published by Mr. Williams. It has contained several valuable papers and various illustrations of colonial scenery and productions. The typography of this publication did the publisher credit.

There have been several religious periodicals from time to time published in Melbourne, and some of them have possessed merit of a high order. The *Port Phillip Christian Herald*, as it was the first in order of time, was certainly one of the best in point of merit of Victorian religious periodicals. The first number appeared in January, 1846, and the editor, the Rev. James Forbes, set forth the objects as the "inculcation of Gospel truth and the diffusion of missionary and other religious intelligence." No man could have been better qualified for the task than Mr. Forbes; he was both an able critic and a good scholar. The *Christian Herald* was continued until the editor's death, in 1851. Mr. Forbes also issued another periodical, named *The Presbyterian Messenger*, which was devoted to the promulgation of intelligence connected with the denomination to which he belonged.

The first number of the *Melbourne Church of England Messenger*

appeared on the 1st January, 1850. It contained an introductory address from the Bishop of Melbourne, in which he set forth that the object of the publication would be "to promote true religion and piety among the inhabitants of this province." This was followed by a well-written article "Thoughts suggested by New Year's Day," and various other well-written contributions. This small publication prospered, and on the 1st of January, 1854, it was issued in a very much improved form. The first number of the new series contained an introductory address from a pen which is very familiar to the readers of the *Messenger*, and a paper "On the right of presentation to vacant cures," by the bishop of the diocese. His lordship also contributed articles on the "Melbourne Hospital" and on "The expediency of adopting a systematic plan for training young men within the colony as candidates for the ministry." A small religious and temperance magazine was published in 1851, named *The Pioneer*. It was edited by Mr. Hume, Presbyterian clergyman, settled at Kilmore. It did not live beyond the year.

There have, no doubt, been other sectarian periodicals published in order to disseminate intelligence amongst the various religious bodies; we do not, however, happen to remember any others than those enumerated.

We must not neglect to notice a class of very useful periodicals published for the use of those engaged in country pursuits. The *Rural Magazine*, edited by Mr. Bunce, *Sinclair's Magazine*, and the *Horticultural Gazette*, all belong to this class.

The literary efforts, apart from the periodical press, were extremely limited. They consisted of a small pamphlet, "Latest Information about Port Phillip," by George Arden, 1840; "Kerr's Almanac for 1840 and 1841, edited by William Kerr; "New Plan of Colonial Government," by T. M'Combie, 1845; "Waste Land Acts considered," by T. M'Combie, 1846; "Land and Labor, in Australia," by Gideon Lang, 1845; "The Warning Voice," by H. W. Mortimer, 1844; "Roman Catholic Prayer Book," edited by Dr. Geoghan, 1846; an introductory lecture on "Architecture, Sculpture, and Painting," by Redmond Barry, Esq.; "Australian Sketches," by T. M'Combie, a reprint from Tait's Magazine, 1847. This is the largest work published in the colony. "The Reserved Judgments of the Honorable

- William A'Beckett, Resident Judge of Port Phillip," 1848; "An inquiry into the origin of the Aborigines," by William Hull, J.P.; "The sixth vial poured forth," a discourse on Revelations, xvi., 12, 16, by the Rev. A. Morison, 1848. This attracted some notice in consequence of a severe review by the Rev. Mr. Forbes, which appeared in the *Port Phillip Gazette*; and a milder but very well-written critique which appeared in the *Observer*, by the Rev. Dr. Macartney. "Are the Catholics of Port Phillip Tridentine Romanists?" by the Rev. William Trollope, A.M., 1850; Reply to the said Pamphlet, by P. A. C. O'Farrell, Esq., 1850; "The Voice of the Storm," by the Rev. A. M. Ramsay, 1850; "The natural and spiritual mind considered in relation to rational education and religious instruction," by W. B. Wilmot, M.D., 1850. A "Catechism of mesmerism," supposed to be by G. A. Gilbert, 1850; "Acts of Council relating to the Corporations of Melbourne and Geelong," by J. C. King, town-clerk of Melbourne, 1850; "Lecture on Mosaic account of the Creation," by Dr. Lang; "Manual of Horticulture," by Mr. Bunce, 1850. This gentleman has since published another work, "Australasiatic Reminiscences."

This list is only brought up to the period of separation, and does not include almanacs, commercial reports, &c.

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